

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA, Docket No. 3:20CR208

Plaintiff,

v

MANISH RAJ GUPTA, June 23, 2020

Defendant.

TRANSCRIPT OF DETENTION HEARING, VOLUME 1
BEFORE THE HONORABLE JAMES G. CARR
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff:

Tracey Ballard Tangeman
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For the Defendant:

Ian N. Friedman
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Court Reporter:

Angela Nixon, RMR, CRR

1 COURTROOM DEPUTY: The Court is now in session
2 before the Honorable James G. Carr, Judge of the United
3 States District Court. The case before The Court is USA
4 versus Manish Raj Gupta, case number 3:20CR208, matter is
5 called for detention hearing. The government is
6 represented by AUSA Tracey Tangeman and Carol Skutnik.
7 Defendant is represented by attorney Ian Friedman and Eric
8 Long.

9 Mr. Gupta, can you raise your right hand so I can
10 swear you in, please?

11 MANISH RAJ GUPTA,
12 was herein, called as if upon examination, was first duly
13 sworn, as hereinafter certified, and said as follows:

14 THE COURT: Okay. Counsel, I've read the
15 materials that have been submitted. Quite candidly, I'm
16 very concerned. I realize that the therapist has indicated
17 that there is a lower or lesser risk of suicide, but I'm
18 very concerned about that in light of the comments made at
19 the time of his arrest. The case will probably be a year
20 or so before it gets resolved. And Ms. Tangeman, if you'll
21 sort of briefly summarize the evidence that the government
22 would be prepared to admit at a trial, and, also, have you
23 done a guideline range? I assume the defendant has a zero
24 criminal history category, or one, but nonetheless, let us
25 know the various sentencing consequences. I do think I

1 have to take into consideration the weight of the
2 government's evidence and also the consequences amongst
3 them.

4 MS. TANGEMAN: Your Honor, the facts are set
5 forth in the government's response to the motion. In
6 summary, they are that the defendant, while working as a
7 doctor, and having the right to dispense controlled
8 substances with the exception of outside of his
9 professional medical practice or for illegitimate purposes,
10 in fact, traveled to a conference in Los Angeles and had
11 arranged to meet with an escort prior to that time via some
12 online application, and at that time he not only drugged
13 her, but proceeded to engage in sex acts on her while she
14 was unconscious. This occurred in September of 2016. The
15 defendant admitted that he was not at this medical
16 conference to treat any patients, and we confirmed that the
17 victim was not a patient of his.

18 The defendant had several sort of habits, if you
19 will, of how he went to these conferences. He would Fed Ex
20 his bag, for example, and we found Fed Ex records that
21 corroborated him sending this bag back around the exact
22 same date that he checked out. We confirmed his
23 reservations with the hotel that the victim identified.

24 And of course when we did -- we executed search
25 warrants in March of this year on his Central Avenue

1 office, we found, in his private office that was kept
2 locked with only him and his office manager having a key to
3 the office, that he had an office filled with sex toys,
4 cameras, hand-held cameras, loose SD cards. He had Valium
5 suppositories, he had narcotics that should have been in a
6 locked storage bin, including a narcotic that was almost
7 never used in the practice.

8 And of course our victim went to a rape clinic
9 shortly after she fled the hotel room and tested positive
10 for a Benzodiazepine, and she had not taken any
11 Benzodiazepine prior to the appointment with the defendant.

12 The defendant had, like I said, several
13 electronic devices. They were analyzed, and we actually
14 located the video of the victim in this case in which it
15 appears that the defendant is performing sex acts on her
16 while she was unconscious. He even recorded her driver's
17 license. And he did the same for another victim in San
18 Francisco during his recording of the sex act after
19 drugging her.

20 To date, we would note that we have over 20 woman
21 who are depicted in videos on the defendant's devices
22 (phonetic). The earliest dates back to 2006, the most
23 recent was September of 2019, which, of course, was just
24 three months before we arrested him. So we're talking
25 about a criminal conduct, a relevant conduct time frame

1 that spans almost 15 years.

2 And we would note that the defendant, when he was
3 arrested and he was found at home, we did note that there
4 were some statements that he made. He essentially made the
5 comment that doctors are three times more likely to die in
6 single vehicle crashes. The agent was not speaking -- was
7 not speaking about anything related to how people die or
8 doctors. There was no conversation or topic at hand about
9 that, and the agent was so concerned that he contacted our
10 office because he said he was concerned about the defendant
11 committing suicide. I should note that the defendant had a
12 sports car at the time, an Audi R8, and they -- the agent
13 urged our office to act faster on the complaint, which we
14 were planning on issuing if we found the videos of the
15 women, but at that point he had just gone to the home. And
16 we actually expedited the complaint as a result of this
17 information. And, in fact, there were several times during
18 the interview where other agents, not just this agent, but
19 other agents even said to the defendant, because of sort of
20 his despondent reaction, that he was going to be okay and
21 that he was going to get through this. So this is
22 something that they were concerned about on the day that
23 they arrested him. This is not something that they are
24 saying as a result of a request for a detention hearing.
25 This is something that was brought up to our office on the

1 day -- day of in March. And in fact, the defendant did go
2 down to his lawyer's office that day. The agents actually
3 followed him because they were concerned that he was going
4 to crash his car.

5 And we would note that the Ohio Pharmacy Board
6 also went in at the same time and had done some audits of
7 the defendant's controlled substances, which they have a
8 right to do, frankly, without any probable cause. They can
9 do so routinely if you carry a DEA number in which you can
10 prescribe. And I would note that the audit revealed that
11 he received a shipment of Ketamine on September 12th, 2016,
12 just two weeks before he drugged and raped our victim in
13 this case. They found significant unaccounted losses for
14 Diazepine/Valium and Ketamine in the drug purchases from
15 2016 to 2019. And there was a vile that was partly
16 empty of Ketamine that was found in his private locked
17 office of his Central Avenue location.

18 I would also note that even prior to this his
19 employees reported to the agent that they had found videos
20 of the defendant having sex with what they described as
21 women who looked like they were escorts. He instructed
22 these women to wear certain things like corsets and high
23 heels and black hose. They did not report it to the
24 police, but one employee later copied four of those videos,
25 and those were later turned over to the FBI.

1 I would also note that in 2013 the office
2 received -- the defendant's office received a phone call
3 from an individual, a female, saying that the defendant had
4 drugged and raped her and video recorded her. And she even
5 accurately described his wooden cell phone case that had
6 his Artisan Cosmetic Surgery logo on it, and accurately
7 described the vehicle he owned at that time.

8 And shortly after that, employees at his practice
9 discovered his black medical bag that was filled with all
10 of the same items that agents later found in 2020 when they
11 raided his medical office and the items in his private
12 office, and those included sex toys, anal lubricants,
13 plastic syringes. At that time when the employee found it,
14 it also included women's lingerie, a tripod with a camera,
15 and a black blindfold, the anesthesia bottle, and that
16 would be consistent then with what we found.

17 The employees advised that the defendant would
18 ship this medical bag to the conferences in advance, which
19 the government would note would certainly be logical in
20 lieu of going through airport security with an x-ray
21 machine of these items.

22 And we would note that in at least some of the
23 videos, it is also visible that the defendant actually
24 inserted what we would call sort of an anal tube to insert
25 something into the anuses of these women. The employees

1 confirmed that they had absolutely no use for anal
2 suppositories in the practice. It is a plastic surgery
3 practice, it's not a G.I. practice. And they confirmed
4 that there would be no reason for the -- for the defendant
5 to have those items in the office or to use them. And we
6 would note that the anal suppositories, the Valium
7 suppositories that were found in 2020, were actually
8 prescribed by the defendant to another individual, but one
9 employee said they thought that was the exact same
10 suppositories that were found in the medical bag just a few
11 years earlier.

12 THE COURT: Okay. If I can interrupt, a couple
13 things. What was submitted later from the victim, candidly
14 I kind of discount that because I can understand what she
15 wants and why. I also know you're able to properly submit
16 victim statements at this stage; however, she is a very --
17 she's available to be a witness?

18 MS. TANGEMAN: She is.

19 THE COURT: Okay. You mentioned in an earlier
20 proceeding that you were attempting to locate other victims
21 to the extent that you could identify them. What's going
22 on in that regard?

23 MS. TANGEMAN: Those efforts are still ongoing,
24 Your Honor. Like I said, we do have the driver's license
25 of another woman, and that investigative lead has been

1 forwarded on to the agency. Obviously Covid has not helped
2 our cause. But those efforts are ongoing, and we do
3 believe that we have identified another woman, not the one
4 that -- whose ID was photographed, but another woman who
5 does appear in some of the videos.

6 THE COURT: Okay. I believe you mentioned in an
7 earlier session, but not in your materials, that the wife
8 had called the victims, is that -- are you --

9 MS. TANGEMAN: Yes. Your Honor, shortly after
10 execution of the search warrant in March, the case agent,
11 Erin Marciniak, who is present as the government's
12 representative, received a phone call from one of the
13 employees expressing some grave concerns about being
14 contacted by the defendant's wife. The defendant's wife
15 essentially told the employee --

16 THE COURT: I see, the wife called an employee.

17 MS. TANGEMAN: The wife called an employee
18 basically saying we need to find out who the traitors are.
19 And the employee felt intimidated and contacted the agent
20 basically saying that this -- the defendant's wife was
21 firmly in the defendant's corner and attempting to find out
22 who had cooperated with police.

23 THE COURT: So once again, counsel, it's my
24 custom, I don't think you've been in front of me before, to
25 let you know what's on my mind. I'd rather have you know

1 what I'm thinking about rather than sort of sit blindly
2 here, and then when the talking is done to wait until then.
3 So I am concerned. We have, it seems to me -- what's the
4 guideline range?

5 MS. TANGEMAN: The guideline range, Your Honor,
6 for Count 1 is 188 to 235 months before acceptance, and for
7 Count 2 it's 135 to 168 months after acceptance. Noting,
8 however, that there's a mandatory minimum of 15 years up to
9 life on Count 1, and noting that Count 2 is up to 20 years
10 imprisonment.

11 THE COURT: And I assume they can run
12 concurrently?

13 MS. TANGEMAN: We would argue that they would
14 not, that they are separate offenses, but that would
15 certainly be the subject of --

16 THE COURT: I would have the discretion to --

17 MS. TANGEMAN: Yes.

18 THE COURT: There's no mandatory consecutive --

19 MS. TANGEMAN: Correct.

20 THE COURT: -- like you do on some gun counts and
21 so forth?

22 MS. TANGEMAN: Correct.

23 THE COURT: And after acceptance on Count 1, what
24 would the guideline range be?

25 MS. TANGEMAN: One moment, Your Honor. That

1 would be, I believe, 135 to 168 after acceptance.

2 THE COURT: Okay. So the mandatory minimum, if I
3 compute correctly, would exceed the guideline range post
4 acceptance?

5 MS. TANGEMAN: No, Your Honor, it's 180 months,
6 so it's actually below -- I take that back, it's below the
7 guideline range before acceptance, you are correct, it is
8 above the guideline range after acceptance. So the
9 guideline range after acceptance basically would be --
10 would not apply because the mandatory minimum --

11 THE COURT: That includes the relevant conduct
12 compensation?

13 MS. TANGEMAN: It does not include any
14 considerations of relevant conduct. Obviously if we have
15 additional victims, then there could be additional counts,
16 and we would certainly argue that the relevant conduct
17 would result in either an above guideline sentence or
18 additional counts. But that's just the offense conduct.

19 THE COURT: Well, quite candidly, because I do
20 want to know what the guideline range is, it would seem to
21 me, you have plenty of videos, the fact that you don't know
22 who 18 of those women are, it would seem to me that under
23 the lower standard of proof of sentencing that the relevant
24 conduct would include 20 victims, well 20 events. Do you
25 know what effect that would have -- if that were so, what

1 effect that would have on the guideline range?

2 MS. TANGEMAN: Every count would be the same. It
3 would be the mandatory minimum of 15 years to life. And
4 then The Court would not be able to group those because
5 they would be different victims on different occasions. I
6 believe The Court would be able to run those concurrent if
7 it so chose. I don't know of a requirement that they run
8 consecutively. But essentially the offenses would -- would
9 be the same guideline calculation. Carol Skutnik has
10 advised that it would add six points to the guidelines. So
11 then you would be -- in addition to those additional counts
12 that would have the same mandatory minimum, you would be --
13 you would be at basically 360 to life before acceptance,
14 and 262 to 327 after acceptance if that would --

15 THE COURT: You answered my question. In other
16 words, were I to take the additional victims into account,
17 that would add six points?

18 MS. TANGEMAN: Correct.

19 THE COURT: That was my question, that would
20 increase the guideline range accordingly?

21 MS. TANGEMAN: Correct.

22 THE COURT: Mr. Friedman, I'm sure you understand
23 why I asked my questions. Obviously serious offense. I
24 realize that the defendant retains, of course, the
25 presumption of innocence. The government still has to

1 prove all of this. But I also think that under the Bail
2 Reform Act, it's not only appropriate, but I need to take
3 into consideration the likelihood of conviction, and as
4 well the consequences upon conviction and how that might
5 induce someone to flee, or in this case, quite candidly, to
6 commit suicide. The defendant's a 50 year old man. He has
7 lost permanently his -- his medical license and lucrative
8 remuneration. If convicted, he'll spend at least 15 years
9 in prison, which would mean by the time he gets out he'll
10 be about 62 1/2 or whatever for good time. And that is if
11 I were to sentence him only on the mandatory minimum on
12 both counts and run the sentences concurrent. I have no
13 idea what I would do. The government's evidence is --
14 obviously it seems to be both strong and compelling at this
15 stage.

16 And so anyway, those factors and also the wife,
17 who is a proposed custodian, has not conducted herself in a
18 way that would suggest that, necessarily during the period
19 of this proceeding, she would understand that her
20 obligation's to The Court and not to her husband or her
21 family. So I'm disinclined to grant you request for
22 release. I understand you are posting very substantial
23 assets. I don't know, I mentioned this before, I assume
24 that I could seize those assets, and thereby undertake what
25 I could to deprive the family of the benefit of those. And

1 that, of course, is at least an inducement to them to see
2 to it that he appears, which, quite candidly, is my
3 principle -- principle consideration. But on the other
4 hand, adding it all up, I'm just not sure that they are
5 reason -- sufficient reasonably to ensure that he will, in
6 fact, appear at trial. We can take his passport, of
7 course, and limit his freedom of movement to the extent
8 that he would be electronically monitored. But of course
9 the problem there is it's post hoc, and the time it would
10 take to get a response into gear, though not substantial,
11 nonetheless seems to me he would have ample opportunity,
12 for somebody who's so inclined at least, to get underway
13 with an effort to flee. Those are my concerns, I'm sure
14 you know that. It's very foreseeable. They are concerns I
15 think with any judge, and including one whose, as
16 Ms. Tangeman knows and argues often, that I should not
17 follow this default, but my default generally is out. But
18 I think the government has presented a pretty persuasive
19 case for continued detention, on really three sorts,
20 potential penalty -- I mean, the guideline range is 360
21 months. That's 30 years. He would be almost my age, I'll
22 be 80 in November. He'll probably be 82, 83 by the time he
23 came out. For all practical purposes, his life as he's
24 known it and the life as we all like to live it, will be
25 gone. And -- and I just think that you add that up, you

1 add my concerns about the wife, and then also the suicide,
2 you put those three together, I'm just concerned about the
3 risk of flight or the risk of nonappearance one way or the
4 other.

5 Quite candidly, I'm not too concerned about
6 danger of the community. I think he would be safeguarded,
7 would be on the family to see to it that nothing of this
8 sort alleged against him possibly -- I'm not concerned
9 about that.

10 So all that being said, and having laid a bunch
11 of duces, the government trumps, it seems to me. By all
12 means go ahead. If you want to consult with your client,
13 as I said before, you and your client can be sent to the
14 breakout room where we would not hear what you're saying.
15 It would be as confidential as if you were in the office
16 and closed the door.

17 And the other thing I should determine is that
18 your client is willing to let me conduct this proceeding by
19 video rather than in person. Quite candidly, our court is
20 opening in August. I've notified those who are appearing
21 in front of me that my present intention is not to return
22 to The Court until this COVID-19 crisis has passed or
23 there's an effective immunization and I've been immunized
24 against it. I've mentioned my age. I'm in very good
25 health for my age, but, quite candidly, I'm much more

1 concerned, my family's made very clear for the duration I'm
2 not going anywhere. I have to abide by their wishes. You
3 may proceed.

4 But before I do, let me talk to Mr. -- to the
5 defendant. Sir, if you'll say something, I just want to
6 discuss with you your willingness to have me proceed in
7 this matter. If not, what I would do is I would refer it
8 to our Magistrate Judge or another Magistrate Judge in the
9 event that -- in the meantime, our current Magistrate Judge
10 is awaiting Senatorial confirmation on nomination to become
11 a District Judge. You do have the right to have this occur
12 in open court with your attorney next to you. But whoever
13 that would be, myself or another Judge, in your presence.
14 This is not a 100 percent solution. It's the best we can
15 do under all the circumstances. What would happen is I
16 would refer it to a Magistrate Judge, that Judge would
17 conduct the hearing that I'm conducting today, prepare
18 what's called a report and recommendation, and if that
19 Judge recommended release, the government would appeal, and
20 it would come to me on the basis of the record. At that
21 point no further hearing would be held unless I
22 determine -- unless I hold one, I don't know what I would
23 do then. But of course if you were detained, you would
24 have the right to appeal that order to me as well. And you
25 also have the right to appeal any order that is not

1 acceptable to you and your lawyer to The Sixth Circuit.
2 And if you aren't able to afford counsel, then counsel will
3 be appointed for you and a record of these proceedings will
4 be prepared. Let me ask you, first of all, do you
5 understand what I've just said?

6 THE DEFENDANT: I believe I do, yes.

7 THE COURT: Okay. Would you like to talk to your
8 lawyer about it? You're welcome to do so. I would do so
9 in your situation. The government has laid out pretty
10 unattractive circumstances for you, and I wouldn't feel
11 right if you didn't take the opportunity to talk to your
12 lawyer and get the benefit of -- express to him your own
13 views and feelings and get the benefit -- you get the
14 benefit from him of his own advice and counsel.

15 As I said, through this technology, you can be
16 sent into what's called a breakout room, and it's as if you
17 would be in your lawyer's office with nobody present and
18 the door closed. Your conversation would be totally
19 confidential. Do you understand that?

20 THE DEFENDANT: Yes. Could I please request --

21 THE COURT: If you do not consent to proceeding,
22 that's fine with me. If you do consent, that's fine with
23 me. Doesn't matter to me one way or the another. Do you
24 understand that?

25 THE DEFENDANT: Yeah.

1 THE COURT: It really doesn't. If, after
2 consulting with your attorney, you decide you want to
3 proceed this morning, and if not, then I would simply refer
4 this matter to a Magistrate Judge and suggest that he hold
5 a hearing early next month once The Court is open in open
6 court, okay? So --

7 THE DEFENDANT: May I briefly confer with Mr. --

8 THE COURT: I couldn't hear you, sir.

9 THE DEFENDANT: May I briefly confer with my --

10 THE COURT: Of course. It need not be brief.
11 Take as much time as necessary. It's very important. It's
12 extremely important, and I want to emphasize how important
13 this proceeding is. Take as much time as you want.

14 And then, Mr. Friedman, may I suggest that you
15 call -- perhaps call my law clerk, if that's okay, or --
16 how do you want to do this, Tina, have them call you or
17 what?

18 MS. DYBALA: Judge, this is Melissa, the law
19 clerk. I can just give him my phone number, and he can
20 call or text when they're ready to come back.

21 THE COURT: That's good. Let's put Mr. Gupta in
22 the breakout room, and then, Mr. Friedman, wait a moment
23 before we put you in the breakout room, Melissa will give
24 you her phone number so that when you're ready to come
25 out -- there's no door for you to knock on.

1 MS. DYBALA: Mr. Friedman, who else would you
2 like in the breakout room?

3 MR. FRIEDMAN: Attorney Eric Long. And also with
4 us appearing today is also co-counsel attorney Madelyn
5 Grant. Both of them.

6 THE COURT: Who?

7 MR. FRIEDMAN: Eric Long and Madelyn Grant, Your
8 Honor.

9 THE COURT: Okay. Fine. Good. Send Ms. Grant
10 and Mr. Long into the breakout room, and then,
11 Mr. Friedman, if you'll just wait a moment Melissa will
12 give you her phone number. Take as much time as you want.

13 (A brief recess was taken.)

14 THE COURT: Okay. Mr. Friedman, how would your
15 client -- how does your client want to proceed?

16 MS. DYBALA: Mr. Friedman, you're on mute.

17 MR. FRIEDMAN: Your Honor, we are going to
18 proceed this morning.

19 THE COURT: Okay.

20 MR. FRIEDMAN: Attorney Long just indicated a
21 moment ago that he's going to get the family on the call
22 and probably put them --

23 THE COURT: That's fine. Yeah.

24 MR. FRIEDMAN: And so let me, first off, thank
25 the government for its presentation and Your Honor for the

1 opportunity to address your concerns. There's no question
2 that when hearing the recitation of the government's case,
3 it appears to be a difficult case, and that it is. And so,
4 without minimizing it or trying to -- let's just accept it
5 as it is, and that is exactly why, at this point, Mr. Gupta
6 needs the highest level of lawyering. Now, that is not to
7 say the highest level of lawyering means the best lawyers,
8 that's not what we're saying. But what we're saying is it
9 would enable a lawyer to provide the most effective
10 representation. So in that vein, I would simply say we all
11 know how difficult it is right now to confer with our
12 clients that are incarcerated. We know that to be an
13 issue.

14 THE COURT: Excuse me, if I understand correctly,
15 at least for the time being, you can't enter the
16 institution?

17 MR. FRIEDMAN: That's correct, Your Honor.

18 THE COURT: Has to all be by video?

19 MR. FRIEDMAN: That's correct, Your Honor.

20 THE COURT: Which is not -- go ahead.

21 MR. FRIEDMAN: I apologize. So it's very
22 difficult. For instance, yesterday Attorney Long needed to
23 speak with Mr. Gupta but could not because we were unable
24 to get it scheduled in that amount of time. Now, had he
25 been home under the conditions that Your Honor can impose,

1 including that of electronic monitored house arrest, we
2 obviously could do that. But these are just the realities
3 of Covid today. And, frankly, while I had hoped that we
4 would be nearing an end and with the transition back to
5 court, I know that, Your Honor, in the Northern District
6 we've been looking at an August start date, but with
7 yesterday's spike being one of the highest numbered days of
8 registered infections, I don't have any confidence that
9 we'll be going back anytime soon.

10 THE COURT: Excuse me, was that in Ohio?

11 MR. FRIEDMAN: Yes, Your Honor. I read this this
12 morning, it's nationally, but an uptick in Ohio. It just
13 is what it is. It's frustrating for many reasons, but as
14 it relates to Mr. Gupta, as Your Honor has recognized,
15 which, as you said you were going to have concern for
16 personal health until, you know, there was some milestones
17 with the recovery from this, I too have to do that as
18 someone who's very high risk because of an -- I'll just say
19 Crohns Disease and I'm on an immunosuppressant. So I'm one
20 of those lawyers who's stuck home, and it's making it
21 incredibly difficult to confer. So even if the institution
22 were to open up for some limited purpose, it still makes it
23 difficult --

24 THE COURT: Apologize for interrupting, but where
25 are your offices, where's your home?

1 MR. FRIEDMAN: Your Honor, we're in Cleveland.

2 THE COURT: That's what I thought. And -- okay.

3 You are closer to the facility, the Northeast Ohio whatever
4 it's called. I'm just saying, as a practical matter, if I
5 were to deny your request, I could recommend to the
6 Marshals that he be detained there, or if possible in the
7 Cuyahoga County Jail. I have no idea whether they take
8 federal inmates. That's not -- it cuts the time in half,
9 but it still doesn't address the problem that you are
10 speaking to, I understand that. The problem is in
11 detention it's going to be a lot more difficult to meet,
12 consult, confer and advise your client as things go along.
13 There's some things that may be shared, I assume whatever
14 videos might not be, but reports and so forth and so on.

15 The good thing, Mr. Friedman, is that I trust
16 you've already experienced in our division we do things
17 differently in terms of discovery. Basically you will have
18 access, except the videos, you'll have to abide by the
19 descriptions of those I assume, at least if you -- if
20 that's -- if the government draws that line and you want to
21 try to cross it, by all means approach me. I'm just saying
22 I assume that the government's not going to allow them to
23 be used, but maybe they'll let you view them if you want to
24 see one or two just to see -- or all 20 of the things. But
25 aside from that, basically whatever the government's got

1 you're going to get.

2 MR. FRIEDMAN: Yes, Your Honor. And I will say
3 that the -- Your Honor's screen's not there, so I want
4 to --

5 THE COURT: I understand. I can hear you. I
6 don't know what the problem is.

7 MR. FRIEDMAN: I just wanted to make sure you can
8 hear me.

9 THE COURT: I can hear you. But before we get to
10 the hearing itself -- but go ahead.

11 MR. LONG: Sorry to interrupt, but housekeeping,
12 Shraddha just entered, she's in a waiting room. Whoever is
13 the host --

14 THE COURT: Melissa, my screen is blank. Is
15 there anything I can do about it?

16 MS. DYBALA: Let's see, Judge.

17 THE COURT: I haven't touched the screen.

18 MS. DYBALA: Did a prompt come up to start your
19 video?

20 THE COURT: It says low battery, that's my
21 problem. I better hook up my battery. Wait a minute. I'm
22 going to have to move my location a bit. Can you see me?

23 MS. DYBALA: I can, Judge.

24 THE COURT: I've got to plug in my cord. I
25 thought I had plenty of battery on the iPad.

1 Okay. Tina, am I back in business?

2 COURTROOM DEPUTY: Yes, Judge.

3 THE COURT: If not, I'll switch to my computer.

4 Go ahead. Go ahead, Mr. Friedman. Go ahead.

5 MS. DYBALA: If we can keep Mr. and Mrs. Gupta in
6 a waiting room as well. Thank you.

7 THE COURT: They're welcome to hear what's being
8 discussed.

9 MR. FRIEDMAN: We may want to do that just so --

10 THE COURT: I think that they should, so if
11 that's possible, Melissa, I mean, can you put audio into a
12 waiting room, or not?

13 MS. DYBALA: Judge, you want them to be able to
14 hear but not necessarily see?

15 THE COURT: They can see too.

16 MR. FRIEDMAN: I'm okay with them coming in,
17 Melissa.

18 MS. DYBALA: I will just put them in from the
19 waiting rooms.

20 THE COURT: That's fine.

21 MS. DYBALA: It looks like whoever was named Lata
22 has dropped out, so they'll need to resign in.

23 MR. FRIEDMAN: Okay. We're okay with going
24 forward. Your Honor, who we have is Shraddha Gupta, so
25 this is our defendant's wife who has joined us this

1 morning.

2 THE COURT: In an effort to replicate this the
3 best we can, by all means they're welcome to be present by
4 video as well as audio. If you can, you can call upon them
5 to testify.

6 MR. FRIEDMAN: So, Your Honor, just to reiterate
7 what I said briefly just for the -- so that Ms. Gupta also
8 knows where we are. So in order to provide the most
9 effective representation, as we said, it would be helpful
10 to have access to our client. And Your Honor's suggestions
11 or thoughts as to where he could be relocated, I don't know
12 whether or not -- I'm not familiar whether Cuyahoga County
13 Jail takes Federal prisoners. In my experience I've not
14 seen that, but perhaps Assistant U.S. Attorney Skutnik
15 knows where the Federal -- it used to be in Euclid, but
16 they changed around with the contract, but I don't know
17 where locally they can be housed. Ms. Skutnik, are you
18 aware of any local housing?

19 THE COURT: What's the closest facility to
20 Cleveland where Federal detainees are presently held?

21 MS. SKUTNIK: Your Honor, the U.S. Marshals have
22 a contract with the Cuyahoga County Sheriff's Office, so
23 the county jail, which is located at the Justice Center in
24 Downtown Cleveland is one location. And there are also, I
25 believe, two local jails in addition to the main facility

1 in Youngstown.

2 THE COURT: Okay. One thing I would like to find
3 out from the Marshal Service, I have them doing that here,
4 I get daily updates on the Lucas County Jail and weekly
5 updates on the Covid situation at CCNO. And were I to --
6 not to release him, I would want to, you know, find the
7 place that seems to have the best, quote, track record. I
8 don't know whether he has any particular -- particular
9 medical needs. I do not believe that he does according to
10 my recollection and the materials that I've read. But if
11 they've got a problem in one facility but not another, if
12 it's an indication that one seems to be doing a better job
13 than the other, Mr. Friedman, I certainly would, to the
14 extent I'm able to do so, direct the Marshal Service to
15 place him in the place that's most convenient to you as
16 possible. Realizing that, under the circumstances, until
17 they open up and allow visitors, it doesn't really matter
18 where he is.

19 MR. FRIEDMAN: That's what I was going to say,
20 Judge.

21 THE COURT: I understand that totally, and it's
22 not easy. I do understand that. Other lawyers have
23 expressed problems in our own county jail, you have to call
24 a recording and try to get a date and a time. CCNO has
25 been pretty good with Federal prisoners, at least in terms

1 of accommodating our requests, even when they're
2 unexpected. There's been one or two that's been pretty
3 short notice and they've been very cooperative, but that
4 may not be so elsewhere. I understand. Go ahead.

5 MR. FRIEDMAN: Thank you. I appreciate AUSA
6 Skutnik letting me know. I've not been familiar with it,
7 but I think you're exactly right, Your Honor. I appreciate
8 The Court's consideration should you determine that release
9 is not likely at this time, it may be best to keep him
10 where he is until it really matters as far as the
11 transfer's concerned. I would say that as it relates to
12 The State prisoners anyway, Cuyahoga County Jail, we're not
13 going in there now or utilizing the new phone system, and
14 that's just been littered with problems also. So at least
15 right now, once we can get the scheduling done we're able
16 to have communications. It doesn't seem that there would
17 be an advantage to moving him -- at least to the county
18 jail now. I'm not familiar with the other institutions,
19 again, what the contracts are, but we can certainly speak
20 with the government and address that should this motion be
21 denied.

22 But I will say, Your Honor, that, again, when I
23 hear the recitation of the facts by the government, it is a
24 difficult matter. I don't want to get into more and
25 contend that the defense is complete right now. We've just

1 started on all of that, and we're not willing today to say
2 that -- to accept the facts alleged as -- as those that
3 will be proven at trial, of course.

4 And, you know, I will say that the morning that
5 this happened there were a couple of very specific concerns
6 that you had. And the government raised the issue of the
7 comments that led the agents to -- to express concerns over
8 his safety, his self-proclaimed statements as to whether or
9 not he was going to harm himself. I think what's important
10 to notice is after the search, both he and his wife were in
11 the car headed to an attorney's office. Their resolve has
12 always been to fight this case. There has not been any
13 sort of mental health history or any documented attempts at
14 any self harm. Now, of course, this being the first time
15 anything like this has happened, that morning there were a
16 good number of agents that came through very early in the
17 morning. And -- and the concern -- at that point there was
18 more kind of a shock and awe effect on him. These are the
19 things that were said, but these are not concerns that the
20 family has, and that's why we have them here today.
21 Attorney Long is prepared to have questions posed to them
22 and also open to The Court and the government because,
23 number one, they are aware of the nature of the charges.
24 And Your Honor did state a moment ago as to the policy as
25 to the evidence that will be exchanged typically in these

1 cases with video. I will say that to date the government
2 has provided quite a bit, and I apologize, I just don't
3 know at this time. That might be a conversation with the
4 government and Attorney Long, I want to be very clear I'm
5 making that comment from the side.

6 But the family is aware of the nature of this
7 evidence, and, yet, still support him. He does not have a
8 passport. There's no other domicile. There's no evidence
9 that he's any greater risk of fleeing, as you said. Your
10 concern, however, was with suicide. You know, it's -- we
11 can argue that, you know --

12 THE COURT: Well, it's also, quite candidly, it
13 is the mandatory minimum, and the potential for a guideline
14 range begins at 360. I think as you shop around you'll
15 find out -- find out my attitude towards the guidelines.
16 That's all I'll say.

17 MR. FRIEDMAN: Understood. And Your Honor, when
18 you have a case like that, there's decisions that need to
19 be made at a later time as to whether to proceed to trial,
20 continue negotiations, enter a plea. We know -- any
21 defense lawyer knows that you're not only going to need
22 consultation with counsel, but you're also going to need
23 consultation with your family. When someone has to make
24 those sorts of decisions, one of the critical issues is
25 speaking with their wife, speaking with their kids, how is

1 this going to affect their kids. Yesterday I did have the
2 opportunity to speak with their son, and the questions that
3 were asked are only questions that the father can answer in
4 getting his family prepared.

5 The sale of the practice, they've been trying to
6 do that but there are a lot of outstanding issues, business
7 issues that need to be dealt with if they're to get a fair
8 sale for that. We're not handling that. Civil counsel is.
9 We've been working with civil counsel. The person that can
10 answer all of those questions obviously is on this call
11 here. So there are certain things that, should this case
12 resolve prior to trial, there are certain things that need
13 to be taken care of to ensure that his family is left in
14 the best financial setting -- standing that they can. He's
15 the one that's able to do it and cannot do it now near as
16 effectively as he could if he were out.

17 This case, Your Honor, I don't know where we're
18 going to go. It's very frustrating because I did mention
19 the spike. And in answer to your question, you had asked
20 me if it was Ohio, and in the very short break that we just
21 took, we did pull up the Cleveland.com article from today.
22 And this was our own -- so we had 729 new cases reported
23 Monday, which is the highest single day increase since 731
24 cases on May 21st. I just wanted to make sure I got you
25 those numbers.

1 THE COURT: After a number of months a -- the
2 potential upward trajectory is starting off, as it were,
3 where we left off.

4 MR. FRIEDMAN: It is, and that's frustrating, but
5 we can talk about that for days because I certainly am
6 frustrated with it.

7 But that said, Your Honor, I would also like to
8 talk about Shraddha, which is his wife on the call. And
9 again, I understand the concern the government has with
10 what was perceived by an employee as intimidating. With
11 the facts that were known that morning, and not really
12 knowing the facts that were there, she was not really
13 talking about the facts that we're dealing with here today.
14 And I think the question that -- Mr. Long will talk about
15 that here this morning as to what this was all about, but
16 at the end of the day we have wife, mom and dad accessible
17 here today to talk about the location, their commitment to
18 supervising, their added responsibilities that they would
19 be taking upon themselves, what they know about the
20 allegations at this point. Sometimes we all know that
21 someone walks into court and kind of shake their head when
22 they hear what the real facts are. But we've had these
23 discussions with the wife, and the kids are there, and this
24 is, frankly, something that's going to facilitate the
25 resolution of this case should it be warranted, or, if not,

1 it will allow counsel to effectively prepare for a trial.

2 So that's really where we are.

3 Difficult allegations, and that's why it requires
4 that much more attention in this case. And right now if
5 you were to say to me, Mr. Friedman and counsel, are you
6 guys confident that you can be ready, the -- well, we can
7 certainly be ready, any experienced counsel can be ready,
8 but I'm not confident that we would be ready to the extent
9 necessary. We could sound fine and he'd get a trial, but
10 am I confident that it's the trial that he and every other
11 defendant deserves, no, not under these circumstances. And
12 that's no one's fault, we're just where we are.

13 THE COURT: Of course the problem with even
14 contemplating trial, you do not want to be in a situation
15 where even if we could accommodate 14 jurors, socially
16 distanced in our courthouse, which is not, I believe,
17 geographically spatially possible. I don't know if you've
18 been to the courthouse in Toledo, but opened in 1934, it's
19 the last probably of the great classic designs, but we have
20 one courtroom. It's a one Judge court, and we now have --
21 we're about to have six or seven judges, but we have one
22 courtroom. And it's not like the courtrooms in Cleveland.
23 It's smaller than a magistrate's courtroom is today. And
24 the other thing, what defense lawyer wants to have a
25 witness who's sitting with a mask on --

1 MR. FRIEDMAN: You can't.

2 THE COURT: -- or jurors sitting with a mask on.

3 And who knows, I mean we are opening August 1st, but as you
4 say, I know that at least one of my colleagues has a very
5 substantial reservation -- former defense attorney Judge
6 Helmick, very substantial reservation about conducting even
7 civil jury trials, much less criminal cases. And I should
8 mention that were the case to go to trial, I would not try
9 it because, as you may or may not know, I do not live in
10 Toledo anymore. I haven't for three-and-a-half years. I
11 return a week a month, have been returning a week a month.
12 That's been since March. I haven't been there since the
13 first week of March. And I've notified both -- both my
14 colleagues in our court that I would -- and also note to
15 prosecution and defense bar of my intention not to return
16 until it's either contained, controlled or available -- but
17 in any event, if this case went to trial, it would take a
18 lot longer than two or three days that I might otherwise
19 have. So I would be -- it would go either to Judge
20 Helmick, Judge Knepp or Judge Zouhary, I just wanted to let
21 you know down the road. And even then -- situation is such
22 that I don't feel comfortable going back. You might not
23 feel comfortable going into a courtroom, especially one
24 that is as contained as ours is, fairly antiquated HVAC
25 system, so forth and so on. So there are just looking

1 ahead, I don't know what we'll do. Maybe consider changing
2 the venue to Cleveland, grand jury meeting there, much more
3 spacious courtrooms. I think they're better able to
4 accommodate a 14 person jury, panel of venire, case like
5 this it would probably be quite large. I would estimate at
6 least 60, maybe more. Just given the nature of the charges
7 and the concerns we're going to have picking a jury to get
8 jurors who truly can only hear the evidence and nothing but
9 the evidence, and get past what some of it might portray to
10 be to determine whether or not the government's met its
11 burden. So I'm just thinking those concerns through right
12 now as we talk.

13 In any event, go ahead. To return to the topic
14 at hand, basically it's an impediment -- substantial
15 impediment, impediments that detention would cause to your
16 ability to do your job as an attorney. Very substantial, I
17 understand.

18 MR. FRIEDMAN: So Your Honor, when I hear you say
19 that, the one principle that really leaps out to me is that
20 which you raised at the onset of this call, which is the
21 presumption of innocence. And where we are right now, it's
22 going to -- potentially it could -- I mean, we're already
23 at an extended period, but this could go on for quite some
24 time. Whether it's a year, two years, whatever it is, we
25 have someone that's presumed innocent sitting there right

1 now who has every right to get prepared the best he can.
2 And a person presumed innocent should be entitled to have
3 the access that we've all envisioned since the beginning of
4 justice and jurisprudence.

5 I will say in response to your concerns of the
6 courtroom, every Wednesday we have all of the judges hold,
7 at our levels of court, including Chief Judge Patricia
8 Gaughan, talkings about The Court, so -- and I know that
9 The Court is set to open at the beginning of August;
10 however that's at the earliest, as I understand it, because
11 you and the other judges are going to consider that. And
12 we just don't know where we're going to be with this --
13 with this subject.

14 I will tell you that you raised an excellent
15 point as to whether or not the trial can really be done
16 honoring all of the protections that are to be afforded all
17 parties in a courtroom, not just the defendant. Back a
18 number of months ago I was brought in to study a case --
19 the first trial that was brought forward in Ashland, Ohio.
20 It was a state case. And they took all of the precautions
21 that they thought were necessary. However, in just being
22 there for the short while with N95s and neoprene and
23 everything else, we saw the trial could not be conducted to
24 keep people safe and honor the rights of everyone in the
25 courtroom, and everyone includes prosecutors, defense

1 lawyers, court reporter, deputies, everyone.

2 And so we authored a report, which is 92 pages,
3 at the time that talks about everything from being able to
4 see faces, getting clear masks, plexiglass, everything, and
5 putting jurors in different rooms, I don't see this
6 happening anytime soon. You're talking to me, Ian
7 Friedman, that's my personal opinions, certainly the
8 closest I get to being a doctor is my J.D. But I've
9 watched it now, and I just don't see it.

10 And it comes back to Mr. Gupta at this point.
11 This could be a long time that this is going on, and to no
12 fault of anyone's. He does deserve access to counsel in a
13 way that allows him to prepare, not just mere access, but
14 effective access. But he is as innocent as anyone else at
15 this moment in time.

16 THE COURT: Let me ask you one thing that's of
17 significant concern. If I take as security, to assure his
18 appearance, the assets that have been offered, and if he
19 were -- obviously if he would flee I can seize them. If,
20 however, he were to commit suicide, I would like
21 confirmation that I can seize those -- that -- I mean, I
22 assume -- I mean, it stands to reason a nonappearance is a
23 nonappearance. When it comes to one's own hand, does that
24 somehow eliminate the security? I don't think it does, but
25 I would like to have that confirmed either by the

1 government or yourself at some point along the way.

2 MR. FRIEDMAN: I believe that that began to be
3 addressed, and Assistant U.S. Attorney Tangeman sent an
4 email Sunday that I did review, and perhaps those questions
5 are posed better for Attorney Long and Attorney Tangeman as
6 they were addressing the issue.

7 THE COURT: Let me hear from her first and then
8 from your colleague.

9 MS. TANGEMAN: Your Honor, I did send an email to
10 all parties. We did research the issue, per The Court's
11 request. It does not appear to the government that you
12 would be able to seize these properties in the event of
13 suicide. There aren't many cases on this issue, but the
14 one case that we did find, The Court actually had only
15 ordered \$35,000 of the 75,000 posted to be seized, and they
16 were reversed by The Fifth Circuit finding that forfeiture
17 in excess of \$10,000 was an abuse of discretion because the
18 defendant's body was discovered less than a day later on
19 his ranch. In other words, the government didn't have to
20 expend a lot of resources to locate him. And that's what
21 the analysis tends to revolve around is how long or how
22 many resources it takes for the government to find the
23 defendant. Again, most of the time that's because they've
24 taken off. And so spending months and months trying to
25 locate someone is why that test was created. But what

1 these cases have reiterated is that bond is not punitive.
2 So in the event that there is a suicide, I think that The
3 Court would be reversed if it tried to seize all of these
4 properties. I mean, it may be that you could seize a
5 little bit, 10,000 would seem to be reasonable in the Parr
6 case, The Fifth Circuit case. But I don't -- I don't
7 believe that The Court would be on solid footing with an
8 Appellate Court if -- if this Court operated under the
9 assumption that all properties, or even an entire
10 residential or business property, could be seized.

11 THE COURT: Okay. Well, Mr. --

12 MR. LONG: Your Honor, if I can --

13 THE COURT: Mr. Friedman, you've heard about this
14 yesterday, and I've heard about this now, and obviously I
15 want to give you plenty of time to respond or be heard
16 further on it, as expeditiously as possible. I just don't
17 know.

18 MR. LONG: Your Honor, if I may on that
19 particular issue. Ms. Tangeman certainly did send over --

20 THE COURT: And just for the court reporter --

21 MR. LONG: I'm sorry, Your Honor. This is
22 Attorney Eric Long on behalf of Dr. Gupta. Your Honor, I
23 reviewed the cases that were sent over by the government.
24 It's our position, we agree with the analysis, and that The
25 Court, based purely on his own action, probably is limited

1 in what can be forfeited. However, I did some research to
2 determine whether or not that's an issue that's waiveable
3 by somebody that's set to inherit those assets. I have not
4 found anything to prohibit the family from entering into
5 some sort of an agreement or an acknowledgment
6 understanding that if there were to be a suicide that they
7 would waive the ability to challenge the forfeiture. I
8 think that under the law they would be able to do that,
9 and, again, that could serve as significant motivation for
10 Dr. Gupta who, again, we'll get into later, has not shown
11 any personality traits along the lines of suicidal
12 ideations. But that may give The Court some comfort, and
13 it would take some time to determine how to execute a
14 waiver of that forfeiture issue. But I anticipate that the
15 family would be comfortable in consenting to that. If The
16 Court were inclined, we'd be able to hash that out.

17 THE COURT: Candidly that possibility occurred to
18 me. I just don't know the answer to either of those
19 questions.

20 MR. FRIEDMAN: Your Honor, if I may, this is Ian
21 Friedman for the record. It is something that -- however,
22 I think it would be prudent that if that were something
23 that The Court were willing to -- or would encourage us to
24 look further into, I would recommend that Mr. Gupta's wife
25 and parents consult with outside counsel who only have

1 their interest at hand. I would not like for any sort of
2 waiver to later be challenged because there was some sort
3 of dual representation alleged by outside counsel. So it's
4 something we can do quickly. They do have civil counsel.
5 I don't expect that that would take more than a day or so
6 to advise them on. I do know that they would be willing to
7 do that. I just don't feel comfortable with our firm
8 making that representation.

9 THE COURT: Let me ask you this, how old are the
10 children, do you know, are they all adults?

11 MR. LONG: They're adults. Both adults, college
12 age.

13 THE COURT: Okay. And how many are there?

14 MR. FRIEDMAN: There's two children, Your Honor.

15 THE COURT: Okay.

16 MS. TANGEMAN: And Your Honor, just so the
17 record's clear, not all of these properties are in the
18 defendant's name. So just so we're clear, the defendant
19 does not own the majority of the properties that he's
20 putting up, his house, his business, and all of the rental
21 properties are -- I believe his business is 1 percent in
22 his name, so --

23 THE COURT: Well, but, you know, it's -- it's --
24 at least it's been my custom if grandma wants to post the
25 house, the fact that it's not owned by the -- candidly

1 where a custodian is putting up -- accepting not only
2 responsibility to do all they can to see to it that
3 defendant will appear and not be a danger, where there is a
4 financial stake, that, after all, is the original concept
5 of bond. I'd put up my money as a pledge that he will
6 appear, even though bonds barely get forfeited in state
7 court, but I certainly have, as I think you're well aware.
8 In one instance \$850,000 wound up --

9 MR. FRIEDMAN: Judge, I'm sorry, Your Honor, but
10 that's the nature of the bond.

11 THE COURT: Right.

12 MR. FRIEDMAN: And then you want the pressure
13 being on the defendant not to violate, but the loved one,
14 who is the guarantor of the bond, is not deprived of their
15 home and money. So the less interest he has, the stronger
16 his incentive to not flee or harm himself.

17 THE COURT: And also it gives the custodians an
18 added measure, as it were, investment in seeing to it that
19 the defendant appears because their own welfare's at stake.

20 MR. FRIEDMAN: So Your Honor, I think that we've
21 pretty much addressed the issues here. However, the family
22 is here and Mr. -- if it please The Court, Mr. Long is
23 prepared to allow you to hear from them as to their
24 commitment to assure his appearance at court. So thank
25 you, Your Honor.

1 So Eric, if you wouldn't mind, and Shraddha, if
2 you wouldn't mind taking yourself off of mute --

3 MS. TANGEMAN: Your Honor, before we do that, I
4 would ask, actually, that the custodians, the remaining
5 ones go into a waiting room because the government would
6 like to question them, so we ask for the separation of
7 witnesses.

8 THE COURT: That's a fair request.

9 MS. TANGEMAN: Thank you.

10 THE COURT: So Melissa, if you'll put the other
11 two family members into a waiting room.

12 MS. DYBALA: Yes, I will.

13 THE COURT: And also let me, if they can still
14 hear me, you should not discuss whatever your testimony is
15 likely to be between the two of you, okay.

16 MS. TANGEMAN: Okay.

17 THE COURT: You may proceed.

18 COURTROOM DEPUTY: I've got to put Ms. Shraddha
19 under oath.

20 SHRADDHA GUPTA,
21 was herein, called as if upon examination, was first duly
22 sworn, as hereinafter certified, and said as follows:

23 THE COURT: Good morning. I'm obviously The
24 Judge. Can you tell me your name, please?

25 A. My name is Shraddha Gupta.

1 THE COURT: How do you spell your first name for
2 the court reporter, please?

3 A. S-H-R-A-D-D-H-A, last name Gupta.

4 THE COURT: And what is your relationship to the
5 defendant?

6 A. I am his wife.

7 THE COURT: And how long have you been married?

8 A. We've been married for 23 years.

9 THE COURT: Okay. And you have two children?

10 A. I do.

11 THE COURT: What are their names, if you can
12 spell them for the court reporter, and their ages, please?

13 A. Sure. My oldest is a son. His name is
14 Kaartikeya Gupta, K, as in kangaroo, A-A-R-T-I-K-E-Y-A,
15 last name Gupta. And my daughter is Ishani, I-S-H-A-N-I,
16 Gupta. My son is 21 years old, and my daughter is 19.

17 THE COURT: Okay. Very well. Mr. Long, you may
18 inquire.

19 MR. LONG: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. LONG:

22 Q. Again, this is Attorney Eric Long. Shraddha,
23 thank you for being here today. I want to just talk with
24 you briefly about your knowledge, overall, of the charges,
25 and your commitment to serve as a custodian in this case if

1 Manish is to be released. If you have trouble hearing me,
2 certainly let me know, okay?

3 A. Sure.

4 Q. Thank you. Shraddha, are you aware of the nature
5 of the charges against your husband?

6 A. Yes, I have discussed it with you and
7 Mr. Friedman.

8 Q. Okay. And are you aware of --

9 THE COURT: Excuse me, Mr. Long. Let me
10 interrupt. Mrs. Gupta, I have to advise you, do not
11 discuss, say anything about anything that you've talked to
12 your -- to your lawyers about, okay, or your husband,
13 unless the lawyer says it's okay for you to answer.

14 A. Okay.

15 THE COURT: And I'm going to strike that last
16 portion of her answer so that there's no risk or danger --
17 was obvious an uninformed response, and I don't want that
18 to be an open accessory to -- breached everything else that
19 you've discussed as a lawyer, okay.

20 A. Thank you. I'm sorry, Your Honor.

21 THE COURT: And I'm positive that the government
22 attorneys do not view that as a breach that would open the
23 door to them coming in and grilling you about everything
24 you told the lawyer and the lawyers told you. Just -- do
25 you understand I'm trying to give you assurance, and us

1 assurance about that, and there is clearly uninformed or
2 uncounseled expression of what you may have discussed with
3 Mr. Friedman or your husband. You can answer questions
4 that you are aware of without having to disclose how you
5 happen to be aware, okay?

6 A. Okay. Thank you.

7 MR. LONG: Thank you, Your Honor.

8 THE COURT: Mr. Long, go ahead. No problem.

9 BY MR. LONG:

10 Q. I'm not getting into how you learned or what
11 conversations you've had. Are you aware of the nature of
12 the charges against your husband?

13 A. Yes, I am.

14 Q. And are you aware of -- that the potential
15 consequences include a long incarceration?

16 A. Yes, I am.

17 THE COURT: Let me also say, ma'am, that this
18 morning, I don't know if you were logged on or not, I had a
19 conversation with the government to determine what the
20 guideline range would be. Sentencing guidelines are a
21 calculation of various factors and the starting point for a
22 sentence for a Judge to determine what sentence is suitable
23 and appropriate in a given case. And as you probably are
24 aware, if your husband were convicted of either of these
25 charges, my understanding I would have no option, no

1 alternative with the sentence, that it would be 15 years in
2 prison, it would probably be 12-and-a-half years, or
3 whatever, of actual time being spent in custody. However,
4 under the guideline range, the government, in my
5 conversation with it, has indicated the guideline range
6 could be as much as 360 months, 30 years, which would
7 probably be about 25 years, both are a very long time,
8 okay. Unimaginable. I simply want you to understand that,
9 as it presently appears, there is a potential that I or any
10 other sentencing judge would have to take into serious
11 consideration a sentence at the low end of the 360 months.
12 I can decide, at my discretion, to go lower. We cannot go
13 lower than 15 years, 180 months. I just want you to
14 understand that situation, because, of course, that kind of
15 time for anybody at any age contemplating what that would
16 mean would be an inducement to flee. To be honest with
17 you, if somebody told me -- I'm a bit older than your
18 husband, but nonetheless, if anybody is 25, 50 or 80 being
19 told potentially that's what could happen, that raises a
20 significant temptation, how am I worse off, if I flee
21 successfully, will I have that much freedom. If I get
22 caught, well, the worst is a condition of five years on the
23 bond hearing plus the loss of everything that's been posted
24 as security. Do you understand that?

25 A. I do, Your Honor.

1 THE COURT: I'm not trying to frighten you at
2 all. I'm sure you're frightened enough as it is, anybody
3 would be in your situation. I'm just trying to explain to
4 you so that you contemplate the responsibility that you
5 would be accepting as the custodian to assure his
6 appearance. I want you to understand the potential
7 consequences of why anybody would be tempted to walk out
8 the door and give it a try, even abandoning his family or
9 potentially rendering them destitute. So if you take the
10 fact of that into consideration, whether that's what you
11 want to put at risk by assuming the responsibilities as
12 custodian. Do you understand what I've said?

13 A. I do, Your Honor. And thank you for explaining
14 that.

15 THE COURT: That's the only reason I'm saying
16 that to you.

17 A. Yes.

18 THE COURT: Mr. Long, go ahead.

19 BY MR. LONG:

20 Q. Thank you, Your Honor. Mrs. Gupta, as The Court
21 advised just now, you understand that serving as the
22 custodian would require you to abide by the terms and
23 conditions of the release that could be imposed, as well as
24 doing your due diligence to assure that your husband is
25 complying with those rules as well, correct?

1 A. Yes, I do.

2 Q. And is that something that, knowing what is at
3 stake, both financially and potentially personal
4 consequences against you if you were to not abide by those
5 rules or inform The Court or the government if there was a
6 violation of those rules, you still want to move forward in
7 that capacity?

8 A. Yes, I do.

9 Q. Can you, very briefly, without breaking down the
10 numbers and whatnot, just describe the process as far as
11 the financial -- that you have offered, just categories of
12 property that you've offered to be secured and understand
13 that it could be forfeited if your husband were to not
14 appear for trial?

15 A. Yes. So the things that we've offered are in two
16 categories. One is related to Manish, and one is related
17 to what may be joint. They're under the business we have.
18 And I'm going from memory, so if you'd like me to look at
19 my notes, I can. From memory, it is all of the assets that
20 are in his practice, his medical license, his 401K and --
21 and then his liabilities that he has. So obviously the
22 assets are the ones that I described earlier. And then
23 from a joint perspective, obviously it's the physical
24 assets of the building. I've offered my home. And then
25 the rest of it are the liabilities that we have in terms of

1 living expenses, so yeah.

2 Q. And those assets and those liabilities and the
3 break down were provided to me?

4 A. Yes, correct. You're breaking up, Mr. Long, but,
5 yes, they were provided to you, and the details and all of
6 the documents that related to those numbers were also
7 provided, along with bank statements.

8 Q. And you had an attorney assist you in preparing
9 those documents and reviewing the categories of assets and
10 the numbers?

11 A. I did.

12 Q. He's provided you with a letter indicating that
13 he has reviewed those documents and signed off to the
14 accuracy of those, correct?

15 A. Yes, Mr. Long, he did.

16 MR. LONG: And for the record, those were
17 provided to Ms. Mendoza through Pretrial Services as well
18 as to the government.

19 THE COURT: And what is the proximate total
20 value, to the best of your understanding, Mrs. Gupta, just
21 an estimate? I understand the market is fluctuating and
22 you can't be accurate to the penny, but your best
23 understanding conservatively?

24 A. There's several million dollars on his practice.
25 There's the ER, which is 4.4 million assets and medical

1 license is about six or 700,000. And his 401K is
2 1.1 million. And then on the personal side, my house is
3 700,000. The property that is the office building, along
4 with his -- his other office is 2.23 million. Those are
5 his assets.

6 THE COURT: And then there's rental property as
7 well as I understand it?

8 A. That is correct, Your Honor. That is
9 approximately 500,000.

10 THE COURT: All of the rental properties? I
11 understand that there is more than one.

12 A. Yes. Yes, Your Honor, there are three, and
13 they're valued in total at about 515,000 I believe.

14 Q. Who owns the rental properties, Shraddha?

15 A. They're owned by both my children.

16 Q. Is that through an LLC or personally?

17 A. Through an LLC.

18 THE COURT: Let me ask you this, quite candidly,
19 if the husband were to commit suicide, it's an open
20 question in the law as to whether or not his nonappearance
21 would trigger the government's right to seize the
22 properties that would be put up, the ones you just
23 enumerated.

24 A. Correct.

25 THE COURT: And it's also an open question

1 whether or not you and any other beneficiary, anybody else
2 with an interest in those properties, within or outside the
3 family, would have to -- it's an open question whether you
4 can waive your right to contest seizure. Are you following
5 what I've said so far?

6 A. Yes, Your Honor.

7 THE COURT: In other words, the government would
8 request a judgment of forfeiture, which, if I were to enter
9 it, would cause the property -- the ownership of the
10 property to come into the government's hands and cutting
11 off ownership right. And that's the way it would work if
12 somebody fled, absconded, and that's quite clear. But the
13 law is uncertain, at least as to whether or not the
14 government could seize that property following a
15 self-inflicted, you know, conduct on the part of the
16 defendant himself which could not be remedied by capture,
17 bond jumping or so forth, but if the defendant would commit
18 suicide, whether the government could request forfeiture of
19 all the property or only a portion of it. It's my
20 understanding, more likely than not, it would just be a
21 portion of it. But the question Mr. Long had raised in our
22 conversation earlier, and I indicated it had occurred to me
23 is, well, can the person who has -- those people who have
24 an interest of any kind whatsoever in the property agree
25 that they will not contest the forfeiture of it, the

1 government's taking of it in the event that the defendant
2 were to commit suicide. In other words, give up whatever
3 right you might otherwise have to say, oops, you can't take
4 that. You understand what I'm saying?

5 A. I do, Your Honor.

6 THE COURT: There'll be ample opportunity to
7 discuss this with other counsel. And Mr. Friedman and
8 myself were talking about that, but you'll seek guidance of
9 independent counsel if I were to release your husband that
10 a condition on release on a non-contestable, currently
11 binding -- you understand?

12 A. I do, Your Honor.

13 THE COURT: I'm not asking you for a decision on
14 that now. I'm just making clear that that's a concern that
15 I have. If I were to release your husband, I want the
16 financial security to be real, not sort of -- or not really
17 there no matter what -- okay.

18 A. Thank you, Your Honor. Thank you for taking the
19 time to explain it.

20 THE COURT: Absolutely. That's my job.
21 Mr. Long, go ahead.

22 BY MR. LONG:

23 Q. Mrs. Gupta, I want to turn your attention now to
24 your understanding of this Court's admonishment to you and
25 other family members at the previous pretrial. What is

1 your understanding of -- let me put it this way, you
2 understand that any attempts to reach out to victims or
3 witnesses in this case carries potential consequences,
4 including your own criminal activity if you're found to
5 have intimidated or interfered with the operation of
6 justice in any way, correct?

7 A. Yes, Mr. Long, I do.

8 Q. And if your -- let me put it this way, you would
9 agree then, whether your husband is released or not, that
10 you are not going to reach out to anyone involved in this
11 case other than lawyers, correct?

12 A. Yes, I agree.

13 Q. There's been some conversation -- strike that.
14 Again, going through, having discussed what's
15 been discussed here today, is it still your wish to move
16 forward, offer the property as security for the release and
17 to serve as the custodian to assure that your husband does
18 appear where he needs to appear and follows any rules
19 imposed by this Court?

20 A. Yes, sir, it is.

21 Q. Thank you.

22 MR. LONG: Your Honor, I don't have any further
23 questions.

24 THE COURT: Ms. Tangeman, the government may
25 inquire -- actually, let's take a very short break, okay.

1 I want to get some coffee, if you want to step out and do
2 the same. Let's take a break. Okay, so about five
3 minutes. It will be pretty short. If you need more than
4 that, just let Melissa know.

5 (A brief recess was taken.)

6 MS. TANGEMAN: Your Honor, may I proceed?

7 THE COURT: Of course. I apologize for the
8 delay. I actually had a call come in that I had to take.

9 CROSS-EXAMINATION

10 BY MS. TANGEMAN:

11 Q. Good morning, ma'am. You mentioned you've been
12 married to your husband for 23 years; is that correct?

13 A. That's correct.

14 Q. And that would be -- that 23 years, has that all
15 been spent in this Sylvania home as well?

16 A. That is not correct. We moved here from -- we
17 lived in different places.

18 Q. Okay. And the time that you have lived in
19 Sylvania in your home, you have been there even before 2006
20 and through up to today; is that correct?

21 A. We were in Sylvania before 2006, but not in this
22 house, yes.

23 Q. And how long have you lived in this particular
24 house in Sylvania?

25 A. I don't remember the year, but it's been more

1 than ten years.

2 Q. And how much money do you still owe on the house?

3 A. About 270,000.

4 Q. You work; is that correct?

5 A. That is correct.

6 Q. And you work at -- is it Owens or OI?

7 A. Owens Corning.

8 Q. And what is your position there?

9 THE COURT: Ms. Tangeman, may I interrupt, maybe
10 put it this way, Mrs. Gupta, now that your husband is,
11 whether released or not, not likely to have an income,
12 certainly nothing as he had before, what are your monthly
13 mortgage, principle, interest and tax payments; and how
14 certain are you that you are going to be able to maintain
15 those and other living expenses that you and your family
16 are going to encounter?

17 A. Yes, Your Honor. Obviously it is -- it is a big
18 change, and I have lot to figure out. I just refinanced my
19 house, so my monthly payment's a lot lower, 2,700 a month.

20 THE COURT: Turned into a 30 year mortgage or
21 whatever?

22 A. I'm sorry, can you please repeat your question?

23 THE COURT: Thirty year mortgage or whatever it
24 was, to reduce the payments?

25 A. Correct.

1 THE COURT: What is your own income where you
2 work?

3 A. I earn 173,000 a year.

4 Q. I'm going to ask you quite directly, are you
5 confident that, barring other unforeseen circumstances,
6 this situation -- what, if any, consequence upon your own
7 employment do you anticipate might be possible from the
8 fact of your husband's arrest and so forth, the charges?

9 A. I'm sorry, Your Honor. Let me repeat what I
10 understood.

11 THE COURT: Let me restate --

12 A. Are you asking -- okay.

13 THE COURT: What sort of jeopardy would you be
14 in, so far as you are aware, as a result of the charges
15 against your husband?

16 A. I am not aware, Your Honor, of any repercussions
17 to me as a result of this.

18 THE COURT: Do you know those with whom you work,
19 or those with whom you report are aware of your husband's
20 situation?

21 A. Yes, Your Honor. There are a few people who are
22 aware. It was pretty public.

23 THE COURT: I can understand. So with that
24 income I gather that you can maintain the household?

25 A. Yes, Your Honor, that's my intent.

1 THE COURT: Okay. Ms. Tangeman, go ahead. You
2 may have been headed there.

3 MS. TANGEMAN: Thank you.

4 BY MS. TANGEMAN:

5 Q. And ma'am, what is your actual work schedule for
6 OI (sic)?

7 A. I work full time. I work, you know, the typical
8 hours are 8:00 to 5:00.

9 Q. Monday through Friday?

10 A. That is correct.

11 Q. And obviously once the Covid situation resolves
12 itself, you would actually be reporting to work Monday
13 through Friday 8:00 to 5:00; is that correct?

14 A. We -- Ms. Tangeman, we have not been told when we
15 would return to work, or if we ever will return to work in
16 the way it was normal before. Currently I work outside the
17 home one day a week.

18 THE COURT: Excuse me, Ms. Tangeman. Just
19 curious, what do you do, what is your job, what do you do?

20 A. My responsibilities are in supply chain, so I
21 manage the supply chain for our business.

22 THE COURT: Go ahead, Ms. Tangeman.

23 BY MS. TANGEMAN:

24 Q. And ma'am, if and when you are to leave the
25 house, would it be fair to say that there would be no one

1 else present then in the home; is that correct?

2 A. Ms. Tangeman, we have -- we have my mother-in-law
3 and father-in-law and my son all as custodians if you would
4 be willing to grant, Your Honor, so there will always be
5 somebody at home.

6 Q. And I -- and I guess, going back to my question,
7 though, in terms of who resides in the home, it would just
8 be you and your husband; is that correct?

9 A. That is correct. For the summer my son is home
10 as well.

11 Q. And when you say the summer, where will he be
12 going back to in the fall?

13 A. To Chicago. He goes to school there. However,
14 we don't know if it will be online or not yet.

15 Q. And your -- your other child -- so both of your
16 children would not -- they are not, at least under normal
17 circumstances, residing in the home year round; is that
18 correct?

19 A. That is correct.

20 Q. In fact, they're not even residing year round in
21 Ohio; is that correct?

22 A. That is correct, yes.

23 Q. Now, you told agents when they came to your home
24 in March of this year that, in fact, your husband had been
25 on anti-depressants just last year; is that correct?

1 A. Yes, he -- he was on some medication I believe.

2 Q. Well, not just medication, but anti-depressants,
3 is that right?

4 A. I don't know the medication name so I -- I know
5 that he was on something.

6 Q. I guess my point is, you described him as being
7 quiet and sad and stating that he did not know why he felt
8 sad all of the time, and you urged him to go talk to
9 someone about it. Do you recall telling the agent that?

10 A. Yes, I do.

11 Q. So fair to say you then told the agents that he
12 began taking Lexapro, which is an anti-depressant. Do you
13 recall telling the agent that?

14 A. I did tell the agent that he took Lexapro, but I
15 am sorry I did not know that it was an anti-depressant or
16 anti-anxiety, yes, ma'am.

17 Q. Well, you obviously knew it was because he was
18 sad and quiet all the time, correct?

19 A. That is correct?

20 THE COURT: Excuse me, but you did not -- you did
21 not tell the agents specifically Lexapro, comma, an
22 antidepressant, period; is that correct?

23 A. That is correct, Your Honor.

24 THE COURT: That's what I understood.

25 BY MS. TANGEMAN:

1 Q. And you described it as being a combination of
2 situations that were occurring back then. You had a
3 stroke, your kids had both left the house, would that be
4 fair?

5 A. Yes, that is correct.

6 Q. So fair to say his depression, his -- his sadness
7 was significant enough that you encouraged him to seek
8 professional help, correct?

9 A. That is correct.

10 Q. Now, when the agents came to your house in March
11 of 2020, they found some guns in your home. Did you know
12 anything about those guns being in your home?

13 A. No, ma'am, I was not aware of it.

14 Q. You had no idea that there were weapons in your
15 house, firearms in your house?

16 A. No, ma'am, I was not aware.

17 Q. Were you aware that there was also ammunition in
18 your house for those guns?

19 A. No, ma'am, I was not aware.

20 Q. Have you talked to your children since then, do
21 you have any idea whether they were their guns?

22 A. Yes, I have.

23 Q. Okay. Has anybody claimed that those are their
24 guns?

25 A. Yes, it is my son that had bought them.

1 Q. And so fair to say your son had hidden firearms
2 in your home, correct?

3 A. I don't know if he -- I wouldn't say hidden them,
4 but he didn't feel it was necessary to tell me. So, yes, I
5 was not aware.

6 Q. And this would be the same son who is a proposed
7 custodian?

8 A. That is correct.

9 Q. Now, your husband did own a gun when you all
10 lived in Cleveland, didn't he?

11 A. I am not aware of that, ma'am.

12 Q. You're not -- you're not aware of whether or not
13 your husband's ever owned a gun?

14 A. That is correct.

15 Q. You're -- are you also not aware that he actually
16 kept a gun in your house at one time in Cleveland?

17 A. I am sorry, ma'am, I'm not aware of that.

18 Q. So if he had kept a gun in your home, he did that
19 without your knowledge, is that fair?

20 A. Ma'am, I do not remember any such thing.

21 Q. Okay. You're from India; is that right?

22 A. Correct.

23 Q. Are you a U.S. citizen?

24 A. I am.

25 Q. Okay. How often do you go back to India?

1 A. I try to go back once a year.

2 Q. And your family has gone with you, haven't they?

3 A. That is correct.

4 Q. And you have family still there, right?

5 A. That is correct.

6 Q. And you stay with them when you go to India?

7 A. Yes, ma'am.

8 Q. And your husband has stayed with them when he's
9 gone to India?

10 A. Yes, ma'am.

11 Q. Now, do you recall receiving a letter from a
12 woman back in 2016?

13 THE COURT: Ms. Tangeman -- Ms. Tangeman, may I
14 interrupt on that line of questioning. And Mrs. Gupta,
15 does your -- does your husband have family also in India?

16 A. His family is all here.

17 THE COURT: So they -- they come here wherever.
18 In other words, he doesn't have aunts, uncles, cousins or
19 whatever, or at least anybody that's he's in regular
20 contact with; is that correct?

21 A. Not anybody he's in regular contact with, but, of
22 course, there's always extended family.

23 THE COURT: Pardon me?

24 A. There's always extended family, you know.

25 THE COURT: Sure. But how often, to your

1 knowledge, does he have contact with any family -- any
2 family member regularly, you know, by e-mail, letter, phone
3 call or whatever, if you know?

4 A. I would say very rarely, Your Honor. Not --

5 THE COURT: In other words, is it -- would you
6 describe them as being close, moderately close, distant, or
7 simply hardly in contact at all? On that spectrum where
8 would you put that contact with family members?

9 A. I would say hardly in contact.

10 THE COURT: Okay. And your family members in
11 India, how are they -- if I may ask, your mom and dad are
12 in this country?

13 A. No, it's my mom that's in India.

14 THE COURT: Okay.

15 A. And my siblings.

16 THE COURT: Okay. Go ahead.

17 BY MS. TANGEMAN:

18 Q. Ma'am, do you recall receiving a letter from a
19 woman back in 2016 saying that your husband had drugged and
20 raped her?

21 A. Yes, ma'am.

22 Q. And that was sent to you at your place of work;
23 is that correct?

24 A. Yes, ma'am.

25 Q. And do you remember discussing that with agents

1 in March of this year?

2 A. Yes, ma'am.

3 Q. And do you recall telling agents that you didn't
4 believe it?

5 A. Yes, ma'am.

6 Q. And that, quote, my husband would never do that,
7 do you remember saying that?

8 A. Yes, ma'am.

9 Q. And you never reported that to the police, did
10 you?

11 A. I confronted Manish, but I didn't -- I did not
12 believe it to talk to the police about it.

13 Q. He denied it, is that fair?

14 A. Yes.

15 Q. Okay. And you believed him, correct?

16 A. Yes, ma'am.

17 Q. Now, you have since told him, since all of this
18 happened, that everyone makes mistakes, is that right?

19 THE COURT: Again -- again --

20 MR. LONG: I'm going to object.

21 THE COURT: I think you're getting into a marital
22 privilege.

23 MS. TANGEMAN: I'm not asking what he said, Your
24 Honor. I'm just asking her statements for you to judge the
25 appropriateness of her as a custodian and, frankly, the

1 issue of whether or not a violation would be reported if it
2 were observed.

3 THE COURT: Let me ask you this, how do you know
4 that she made that statement, according to your --

5 MS. TANGEMAN: Because it was in a jail call.

6 THE COURT: Okay. I think, Mr. Friedman, that
7 given the fact that there's no protection against
8 monitoring those inmates conversations, I would also
9 assume, because it's customary and common place almost
10 universally, places of detention provide notice to that
11 effect to inmates when they come in. There's also a
12 handbook, there's usually a notice posted. And she may not
13 have been aware of that because even if no -- no
14 expectation of those conversations were not being
15 intercepted, but the defendant, having been on notice, as I
16 assume he was, you can inquire in that regard, would have
17 quietly consented to the interception, so --

18 MS. TANGEMAN: And Your Honor, I would note that
19 both parties are advised that the call is recorded.

20 THE COURT: And that's typical too. It's a
21 bit -- Mr. Friedman, in the article of which it appears,
22 I'm the author of The Law of Electronic Surveillance, as
23 Ms. Tangeman knows, that's why the lengthy comments about
24 that. I would think -- you can be heard fully, obviously,
25 but it's my understanding that there's no -- no privacy,

1 statutory privilege under Title 3 or Constitutional
2 privilege or marital privilege.

3 MS. TANGEMAN: May I proceed, Your Honor? Thank
4 you.

5 BY MS. TANGEMAN:

6 Q. And ma'am, you told him that, quote, everyone
7 makes mistakes, is that right?

8 A. My comment was just to keep him in a different --
9 he's in jail, just to keep him going, so --

10 Q. I'm not -- and forgive me, I'm not asking you why
11 you said it, I'm just asking if you did say something to
12 that effect?

13 A. I might have, ma'am, I --

14 THE COURT: Would you deny that if that were --
15 the government to represent this if they have you on
16 recording saying that?

17 A. No, I would not deny it.

18 THE COURT: But you said that you -- you just
19 said -- you said that was just to keep him going, if I
20 recall that statement a moment ago correctly. What do you
21 mean by that?

22 A. Well, I can't imagine what it is like to be in
23 jail, and I can only imagine that it is very difficult. If
24 I would have -- probably would have talked to a dear
25 friend, I would have just been encouraging of, you know, to

1 keep head good and keep going. Maybe it's cultural.

2 That's all my intent was.

3 THE COURT: Okay.

4 BY MS. TANGEMAN:

5 Q. And is that because --

6 THE COURT: I don't think it's something

7 cultural, I think it's human nature. Go ahead,

8 Ms. Tangeman.

9 BY MS. TANGEMAN:

10 Q. And it would be fair to say that you are sticking
11 by him, is that right?

12 A. Yes.

13 Q. Now, you mentioned that your medical building,
14 the medical building is also one of the properties. Which
15 medical building are you referring to, the one in the City
16 of Toledo on Central Avenue or the one in Oregon?

17 A. Yes, the one on Central Avenue.

18 Q. Is that not under -- under contract to be sold?

19 A. It is.

20 Q. So fair to say you wouldn't be able to put up a
21 property if it were sold to someone else?

22 A. That is correct.

23 Q. So in effect, any -- any documentation about the
24 medical building on Central Avenue would not be part of any
25 posted security, is that right?

1 A. I -- I don't know how to answer that except it --
2 whatever The Court decides.

3 THE COURT: Let me -- let me say this, as I sit
4 here now, this is all contingent on deciding to release the
5 defendant. That's a decision I have yet to make. However,
6 would you be willing to agree, pending -- what's the status
7 of that sale? When is the closing and so forth?

8 A. We don't have a date, Your Honor.

9 THE COURT: Okay. Is there a contingent
10 arrangement that they have to get financing or whatever?
11 What's the situation?

12 A. We're waiting to hear back from them, the person
13 we met with last week.

14 THE COURT: And would you be willing, pending a
15 decision by me, in the event that it were to -- the
16 transaction were to occur before I reach that decision,
17 which I would have hoped I would have reached a decision
18 before then, but to, you know, pay those funds into The
19 Court's registry as further security to assure the
20 proceeds -- as further security to assure your husband's
21 appearance? Instead of posting property, you would simply
22 post proceeds that you reach --

23 MR. FRIEDMAN: Your Honor, I'm just shaking my
24 head no to Mr. Gupta who was trying to speak at the moment.
25 I'm not shaking my head to Shraddha.

1 THE COURT: She can't see you unless you speak,
2 and I didn't -- that's no problem. And Mr. Gupta, I would
3 agree you'll have ample opportunity to consult with your
4 attorney before I conclude these proceedings today. And I
5 may not be able to -- we'll simply have to wait and see. I
6 would like to very much, as much as you would like to know
7 what's going to happen to your family, but it's a -- it's a
8 difficult decision, so you'll have ample opportunity to
9 consult with your attorney.

10 Ms. Gupta, I don't need an answer to that
11 question now as to whether instead of the property
12 proceeds, but it's something I would probably want to
13 include, okay, just FYI. And you would be heard further on
14 that issue, perhaps, before I make a decision, okay? Do
15 you understand what I've said?

16 A. Yes, I do, Your Honor.

17 THE COURT: Thank you, ma'am.

18 Okay, Ms. Tangeman, as always, you know me well
19 enough, I apologize for the interruption.

20 MS. TANGEMAN: Thank you.

21 BY MS. TANGEMAN:

22 Q. And ma'am, you contacted an employee of your
23 husband's within a day or two of the FBI coming to your
24 home in March; is that correct?

25 A. That is correct.

1 Q. And your -- your home, is it's equipped with
2 internet service?

3 A. Yes, ma'am, it is.

4 Q. And how many electronic devices, laptops, cell
5 phones, iPads, do you have in the home?

6 A. I have a computer and an iPhone and a phone.
7 Sorry, and there is one other tablet.

8 Q. And if The Court -- go ahead.

9 THE COURT: Excuse me, I apologize. Do you have
10 a land line phone, a regular old fashioned land line phone?

11 A. We do have a land line, yes.

12 THE COURT: Go ahead, Ms. Tangeman.

13 MS. TANGEMAN: Thank you.

14 BY MS. TANGEMAN:

15 Q. And just so we're clear, when you contacted an
16 employee just a day or two after the raid on your home, do
17 you recall telling the one employee that you were trying to
18 figure out who the traitors were?

19 A. Ma'am, if you'll give me a chance, I'd like to
20 help understand that conversation.

21 Q. You contacted an employee, at which you just
22 admitted, just a day or two after the police raid on your
23 home, and you basically told this employee that you wanted
24 to figure out who had talked to the police, who the
25 traitors were, do you recall that?

1 A. I do not believe I ever used the word traitor.

2 Q. Well, what words do you recall using?

3 A. I did contact the employee, the employee wanted
4 to go into the office on Sunday to clean up, and I was
5 concerned about her security. And I asked her, who do you
6 trust that we can have in the office. And I did ask her
7 that question, who do you trust, but it was simply for her
8 safety.

9 Q. What were you afraid she was in jeopardy of?

10 A. Well, ma'am, I had gotten followed by three cars
11 on Friday. I had some neighbors harassing me. And so I
12 just didn't know what to expect with this. I've never been
13 through something like this, so I was just concerned about
14 safety for all of us. And she was nice enough to go into
15 the office to help clean up before the staff came in on
16 Monday, and I just felt really uncomfortable. I
17 volunteered to be there, but I said maybe it's better if
18 there's somebody that you trust that can be there.

19 Q. And had you ever suspected your husband of what
20 he's accused of doing prior to receiving that letter from
21 that woman in 2016?

22 A. No, ma'am.

23 Q. You did know that he traveled to medical
24 conferences out of state, though; is that correct?

25 A. Yes.

1 Q. And did you share devices in the home, electronic
2 devices?

3 A. I mean, the home computer was shared, yes.

4 Q. As you sit here today, do you have any idea how
5 he -- if it were true, how he would have been able to
6 communicate, say, with escorts online without you knowing
7 it?

8 MR. FRIEDMAN: Objection, she's getting outside
9 the scope, I believe, of this hearing.

10 THE COURT: I would tend to agree with that,
11 Ms. Tangeman. I mean, the relevancy.

12 MS. TANGEMAN: So ma'am --

13 THE COURT: It does seem outside the scope. If
14 it appears relevant and pertinent, that's fine.
15 Otherwise -- go ahead.

16 BY MS. TANGEMAN:

17 Q. Fair to say you had no idea that he was
18 communicating with escorts online much less meeting with
19 them, is that fair?

20 A. Yes, ma'am.

21 Q. And are you aware that this conduct could have
22 been occurring, or it's alleged to have occurred for the
23 past 14 years, were you aware of that?

24 A. No, ma'am.

25 Q. And ma'am, I know this must be a very difficult

1 situation for you to be in. Would it be fair to say that
2 you love your husband very much, notwithstanding everything
3 that's happened? Would that be fair?

4 A. Yes, I do love him, but I don't necessarily -- I
5 don't know what that means in terms of the question.

6 Q. Well -- and I guess my question is, you would
7 hate to see him put in harm's way, wouldn't you?

8 A. But I would abide by The Court's orders.

9 Q. When you were made aware from this letter that
10 you received from this woman in 2016, did you tell anyone
11 else about it? You told us you didn't call the police.
12 Did you tell anyone else about it?

13 A. I can't recall that I did.

14 Q. And you obviously loved him as much then as you
15 do now, is that fair?

16 A. Yes, ma'am.

17 Q. I have nothing further.

18 THE COURT: Okay.

19 MR. FRIEDMAN: Your Honor, just some follow up.
20 Thank you, Your Honor. Thank you.

21 REDIRECT EXAMINATION

22 BY MR. FRIEDMAN:

23 Q. So Ms. Gupta, just very quickly. The question
24 that was left off was involving a letter back from 2016 and
25 conduct leading up to this day. There was obviously a time

1 that you were not aware of what was going on, correct?

2 A. Correct.

3 Q. But the question now is different, you are aware
4 of what has occurred --

5 THE COURT: Well --

6 BY MR. FRIEDMAN:

7 Q. -- what's being alleged?

8 A. Correct.

9 Q. Okay. And so that being said, with you being
10 aware of what has been alleged, would you agree to be
11 responsible for whatever -- whatever that responsibility is
12 that The Court would place upon you, would you agree to
13 adhere to any court orders that -- that -- in this matter?

14 A. Yes, Mr. Friedman, I would.

15 THE COURT: Mr. Friedman, if, perhaps, I can
16 interrupt. I'm sure you -- and describe to her -- I'm sure
17 you have already. Number one, your primary obligation
18 would be to The Court and not to your husband, yourself or
19 your family. You understand that?

20 A. Yes.

21 THE COURT: Did you hear what I said?

22 A. Yes, I did, and I do agree --

23 THE COURT: Okay.

24 A. -- and understand.

25 THE COURT: And that you would be the one

1 principally responsible for assuring that he doesn't cause
2 any harm to himself, because that's a big concern. But
3 also that he would not undertake to flee to avoid
4 prosecution and its potential consequences, that would be
5 your principle responsibility. You understand that?

6 A. Yes, Your Honor, I do.

7 THE COURT: Among other things, I would not
8 permit your husband to have a cell phone. I would not
9 permit him to use the land line, of which a device, I
10 believe, will be put on it to determine whether any calls
11 had been made, were those calls had been made. I would not
12 permit him to either be in possession of or have access to
13 any car keys.

14 And with regard to his access to electronic
15 devices, I would hear from the government first before
16 those sorts of restrictions -- there might be other
17 requirements. He could only leave the home for purposes of
18 receiving needed medical treatment and for purposes of
19 meeting with or consulting with his attorneys. Do you
20 understand that?

21 A. I do, Your Honor.

22 THE COURT: Also, I would also consider --
23 consider, upon request, permitting him to attend any
24 religious services of any sort if that were desired, if
25 that desire appeared to be bonafide and didn't create a

1 risk of flight. And an adult would have to convey him to
2 and from such services, such medical treatment and such
3 consultations with the lawyer, and that adult would have to
4 understand his or her duties to The Court to ensure that no
5 effort was made to flee or cause harm to himself, do you
6 understand that?

7 A. I do understand that.

8 THE COURT: The circle of responsibility would
9 extend beyond just yourself, but it would also be your
10 responsibility, as principle custodian, to see to it that
11 the other custodians, to the best of your ability and
12 knowledge, were performing their duties as well. Do you
13 understand that?

14 A. I do, Your Honor.

15 THE COURT: That if you had any apprehension that
16 your husband might not comply with each and every one of
17 the conditions of release, particularly with regard to
18 fleeing or harming himself, even if that was simply an
19 apprehension, not a certainty, but something you
20 apprehended might occur, you would have to call the
21 pretrial services officer and the lawyer for the government
22 as well, do you understand that, to alert all of them?

23 A. I do, Your Honor. I do Your Honor.

24 THE COURT: If either of those were to happen,
25 certainly if he were to flee, if that were to happen, you

1 could be called upon to show cause why you didn't warn The
2 Court. Do you understand that?

3 A. I do, Your Honor.

4 THE COURT: And if I weren't satisfied with your
5 explanation, you would be charged with contempt of court
6 for not following my order. You understand that?

7 A. I do, Your Honor.

8 THE COURT: It's a very serious responsibility,
9 and I believe that for now is what I can think of. There
10 would be other requirements as well. You understand that?

11 A. I do, Your Honor.

12 THE COURT: Go ahead, Mr. Friedman.

13 Mr. Friedman, the transmission is -- there's some garble in
14 the transmission, I don't know if you changed your device
15 or whatever you're using, Mr. Friedman.

16 MR. FRIEDMAN: I'm going to sign off and sign
17 back on. I don't know why it's doing that.

18 THE COURT: I'm sorry, I can't understand what
19 you said.

20 MS. DYBALA: He said he's going to sign off and
21 then sign back on.

22 THE COURT: Okay, very good. Thank you very
23 much.

24 (A brief recess was taken.)

25 MR. FRIEDMAN: Judge, while you took a break for

1 a moment, I did blame it, and I think rightfully so, on my
2 two year old and five year old using the gadgets.

3 (A brief discussion was had off the record.)

4 BY MR. FRIEDMAN:

5 Q. All right. So Ms. Gupta, thank you for your
6 patients on my technical issues.

7 So you're aware now of the allegations and the
8 question, in light of the government's question, you love
9 him now as much as you loved him then. In light of that
10 background, if you saw a violation of any rule by your
11 husband, understanding that your obligation is to The
12 Court, would you then report it as instructed by The Court?

13 A. Yes, Mr. Friedman, I would.

14 Q. Now, your parents or your in-laws, I'm sorry, are
15 also living in Michigan, correct?

16 A. Yes, sir.

17 Q. And right now you're home at all times and your
18 in-laws live there with you or near you?

19 A. They live near me in Michigan. I mean, they
20 don't live here, but they would if -- if they were the
21 custodians.

22 THE COURT: What community, what town or
23 community?

24 A. They live in Orchard Lake.

25 THE COURT: And how far is Orchard Lake from

1 Toledo, about an hour or so?

2 A. Yeah, about an hour and 15 minutes.

3 THE COURT: If I may ask, how old are they?

4 A. 75, 78, something like that.

5 THE COURT: Are they, either of them,
6 currently -- either of them have an occupation outside the
7 home?

8 A. Yes, my father-in-law works.

9 THE COURT: What does he do?

10 A. He's a physician.

11 THE COURT: Okay. He has a full-time practice?

12 A. No, not really.

13 THE COURT: Okay. And does your mother-in-law
14 drive?

15 A. Yes, she does.

16 THE COURT: And do you think she'd be willing to
17 either move to Toledo or simply undertake to commute, as it
18 were, to be there before you left in the morning or to
19 remain until you got home in the evening?

20 A. Yes, she would.

21 THE COURT: And she's physically, and so forth,
22 able to do so? I assume so, I don't mean to insult her by
23 asking those questions.

24 A. Good questions. Yes, Your Honor, she is.

25 THE COURT: And then your father-in-law would be

1 able to accompany her from time to time as well?

2 A. Yes, Your Honor.

3 THE COURT: Thank you. Go ahead, Mr. Friedman.

4 MR. FRIEDMAN: Thank you.

5 BY MR. FRIEDMAN:

6 Q. And, in fact, Ms. Gupta, your in-laws have been
7 very involved in this matter, as they've accompanied you to
8 Toledo to meet with us, they've been engaged in phone
9 calls, both audio and video as well, correct?

10 A. Yes, Mr. Friedman.

11 Q. And it's your belief that they would assist you
12 in any way necessary to comply with any court orders?

13 A. Yes, Mr. Friedman.

14 Q. All right. Now, the medical building itself, any
15 assets from the sale of it, and there are certainly
16 liabilities to it, but any assets at this point -- and I
17 would -- there will be other issues that we'll address,
18 perhaps when you confer with other counsel, but when you
19 talked about pledging proceeds, you would be talking about
20 the office, it would be the proceeds of that office, and,
21 yes, you would be willing to put up any proceeds of any
22 sale to -- as a guarantor in this case to assure your
23 husband's presence?

24 A. Yes, Mr. Friedman, once I've conferred with civil
25 counsel.

1 Q. All right. Very good. Now, have you -- the
2 question that was asked by the government about guns and
3 travel and so forth, you were not aware of that -- this was
4 not something you asked about, and this whole case came
5 about as a grave shock to you, would that be a fair
6 characterization?

7 A. Yes, Mr. Friedman.

8 Q. Okay. But now that you're aware of the
9 allegations, would you take it upon yourself to be thorough
10 in searching the house? Would you look through the house
11 to make sure these are no longer issues?

12 MS. TANGEMAN: Your Honor, I'm going to object --
13 I'm going to object to the leading nature of this.

14 MR. FRIEDMAN: That's fine, I was only doing it
15 for purposes of the -- I can ask five questions to one.

16 BY MR. FRIEDMAN:

17 Q. So let me -- let me ask you this, were you -- at
18 this point, as far as whether or not there are any guns in
19 the house, have you taken any steps to determine if there
20 are any?

21 A. Yes, Mr. Friedman.

22 Q. Okay, and what steps have you taken?

23 A. I've had conversations with my kids about the
24 seriousness of having something that is not shared with me.
25 That is the steps that I've taken.

1 Q. And as a result of those discussions, are you
2 confident that there are no longer any guns in the home?

3 A. Yes, Mr. Friedman, I'm confident there are no
4 guns in the home.

5 THE COURT: Excuse me, Mr. Friedman, I have
6 another question that occurred to me, if I may.

7 To your knowledge, is that anti-depressant that
8 you mentioned that had been prescribed for your husband, is
9 he still taking that, if you know?

10 A. I do not know that, Mr. Friedman.

11 THE COURT: Well, would you undertake to
12 determine, through the therapist or anyone else, whoever it
13 was that prescribed that medication, or who might prescribe
14 a similar medication, to your knowledge, to determine
15 whether such medication had been prescribed, and then to
16 see to it that they were not at hand for your husband? In
17 other words, you would have to keep possession of them, and
18 if he had to have it four times a day, you'd leave whatever
19 was necessary during your absence, and then when he had to
20 take it later when he was in your company, you would simply
21 give it to him at the prescribed time. Do you understand
22 what I'm saying?

23 A. Yes, Your Honor, I do.

24 THE COURT: I would assume -- the concern
25 occurred to me that narcotics of that kind might have an

1 effect over -- if he took an overdose of them, it might be
2 a way of ending his life. I'd actually be more concerned
3 about that than I would be about firearms.

4 But go ahead, Mr. Friedman, your inquiry may
5 continue. Go ahead.

6 BY MR. FRIEDMAN:

7 Q. I'd also like to now turn your attention to a
8 question that was asked of you about the contact you had
9 with an employee of the medical practice. Do you recall
10 discussing that -- responding to U.S. Attorney Tangeman's
11 question?

12 A. Yes, Mr. Friedman.

13 Q. So the explanation that you provided, was that
14 the full explanation, or would you like to elaborate
15 further on your reasoning for contacting the employee at
16 that time?

17 A. There's really nothing substantial other than
18 what I already explained. Just to repeat a few things, I
19 was being followed, I was scared for my life. I was
20 concerned that they might be people trying to harm people
21 that I knew. The employee had been very nice enough to be
22 helpful, so I wanted to be protective of her and not have
23 an individual in the office by herself in case there was
24 somebody outside. Obviously the mind goes different
25 places. I don't know if that would have been true or not,

1 but that is the only reason which is -- I'm sorry, did I
2 say something?

3 Q. No, no, no.

4 A. Okay. So my intent was really to make sure that
5 she was safe and that there wasn't anyone that she --
6 anyone that she trusted to be with her, to be with her.
7 Really that was my intent.

8 Q. Did there come a time when you and I discussed
9 this after -- well, let me ask you that. Did there come a
10 time when you and I discussed that issue of the employee
11 contact?

12 A. Yes, Mr. Friedman, we did discuss it.

13 Q. Okay. And do you recall -- so since then, and
14 would it be fair to say that I had relayed to you what the
15 Assistant U.S. Attorney's concerns were?

16 A. Yes, Mr. Friedman, you did.

17 Q. Since that time, have you reached out to any of
18 the employees for anything other than business purposes?

19 A. No, Mr. Friedman, I have not.

20 Q. All right. And should The Court grant the
21 opportunity for Manish to be at home to prepare his case,
22 would you agree that you would not -- not be talking to any
23 conceivable witness in this case, period, unless it was run
24 by counsel and approved by counsel?

25 A. Yes, Mr. Friedman.

1 Q. All right. The Court asked about internet
2 service. I think the government did as well. Have you
3 also discussed this with me, the internet service in the
4 house?

5 A. Yes, Mr. Friedman.

6 Q. And in fact, any other relatives from your home
7 engaged in that discussion with us?

8 A. Yes, Mr. Friedman, my in-laws were on that --

9 Q. Was your son on there?

10 A. Yes, my son was on there as well.

11 Q. And again, how old is your son?

12 A. He's 21.

13 Q. All right. And if those -- so this call today is
14 not the first time that you have considered any sort of
15 modifications to internet service in the home. Would that
16 be a fair statement?

17 A. That is fair, Mr. Friedman.

18 Q. Should The Court be willing to allow Manish to
19 come home to prepare his case, would you be willing to
20 eliminate all access points to the internet? And that
21 would encompass everything from phones, to smart TVs, to
22 even Play Stations, hand-held phones or tablets?

23 THE COURT: Mr. Friedman, if I can interrupt.

24 I'm not sure I would want to eliminate other person's
25 access to the internet. It would seem to me that I would

1 assume -- the government can be heard on this, I don't know
2 that much about all of this -- that they would be password
3 protected and the passwords simply weren't shared.

4 MR. FRIEDMAN: And that's where I was going, Your
5 Honor, as far as what her willingness to do, however the
6 practicality of it, but I'll combine the two.

7 BY MR. FRIEDMAN:

8 Q. I guess the question would be, you need the
9 internet for work, is that a fair statement?

10 A. That is correct.

11 Q. Do you have the ability to utilize password
12 protected access?

13 A. Yes, Mr. Friedman, I did.

14 Q. Other than that, your password protected access
15 for your employment, would you be willing to eliminate any
16 access point or any internet connections accessible to
17 Manish should The Judge allow him to come home to prepare
18 his case?

19 A. Yes, I would be in agreement to limit access from
20 Manish.

21 Q. Okay. My last question for you really deals with
22 the layout of your home. Is this a free standing single
23 family home?

24 A. Yes, it is.

25 Q. And do you have a back yard?

1 A. Yes, I do.

2 Q. And if counsel needed to meet with Manish,
3 whether indoors or outdoors, is there enough space for one
4 or two lawyers to properly social distance either inside or
5 outside with him if we needed to prepare the case?

6 A. Yes, Mr. Friedman. Yes, that is possible.

7 Q. Okay. So you've got a fenced in back yard area?

8 A. Yes, Mr. Friedman.

9 Q. Is there a back deck?

10 A. Yes, there is.

11 Q. Okay. All right. And so if I were to suggest
12 that at a minimum of 6 feet between all participants, and
13 maybe even more as we learn more, is there that sort of
14 adequate room and privacy that would allow the lawyers to
15 meet with Manish as needed?

16 A. Yes, there is adequate room.

17 MR. FRIEDMAN: Your Honor, that's all I have on
18 this point.

19 THE COURT: Ms. Tangeman, anything further?

20 RECROSS-EXAMINATION

21 BY MS. TANGEMAN:

22 Q. Ma'am, your father-in-law was not just a
23 physician, but he was also a plastic surgeon, is that
24 right?

25 A. That is correct.

1 Q. And he still has the authority to prescribe
2 medication, correct?

3 A. Yes, he does.

4 Q. And in fact, he worked with your son -- with your
5 husband, his own son, in the same practice, is that right?

6 A. He was not part of the same practice.

7 Q. So he worked --

8 A. But he did --

9 Q. Go ahead.

10 A. He did do a case or two with Manish occasionally,
11 but, no, he was not part of the same practice.

12 Q. He -- he was up at the Taylor, Michigan location,
13 your father-in-law, was he not?

14 A. Yes, he is.

15 Q. And isn't that a location that your husband would
16 occasionally go and take appointments in?

17 A. No, he did not.

18 Q. Okay. Your father-in-law still works as a
19 doctor; is that correct?

20 A. That is correct.

21 Q. And he still maintains patients in the Michigan
22 office, correct?

23 A. That is correct.

24 Q. I have nothing further. Thank you.

25 THE COURT: Mr. Friedman, anything further?

1 MR. FRIEDMAN: No, Your Honor, just --

2 THE COURT: Ms. Gupta, I have nothing further
3 either. Thank you very much for your attendance.

4 Your next witness is?

5 MR. FRIEDMAN: Your Honor, we're not going to be
6 calling mom and dad. They're available, but I don't think
7 there's any contentions at this point they're not going
8 to --

9 THE COURT: I would still like to make sure, to
10 the extent that they're going to be custodians, that they
11 understand their obligations.

12 MR. FRIEDMAN: Okay. So Melissa, if you want to
13 bring them in, that would be great.

14 MS. DYBALA: Judge, they're on the same device.

15 MR. FRIEDMAN: We'll ask one to leave the room,
16 Judge.

17 THE COURT: And I have no problems with
18 Mrs. Gupta participating in the video conference as well.
19 I'd like to --

20 MS. DYBALA: Ms. Gupta, I was going to tell her
21 to mute herself. She already did.

22 THE COURT: Okay. Okay. Mr. Friedman, one of
23 the parents has been brought into the conference. If you
24 will, I'll have you introduce that individual, and have --

25 MR. FRIEDMAN: Your Honor, would you like one of

1 the parents to leave the room while we're doing the
2 questioning?

3 THE COURT: Probably just as a -- we'd do the
4 same thing if we were in court.

5 MR. FRIEDMAN: Dr. Gupta, if you wouldn't mind,
6 would you mind stepping out of the room because there's a
7 separation order right now.

8 MRS. GUPTA: I'll leave my husband, and I'll go.

9 MR. FRIEDMAN: Well, you're going to end up
10 speaking so doesn't matter who goes first.

11 MRS. GUPTA: Okay, I will go.

12 DR. GUPTA: Can I start first, please, if you
13 don't mind?

14 MR. FRIEDMAN: Dr. Gupta, if you want to kind of
15 center yourself in the frame. Thank you. May it please
16 The Court, Your Honor --

17 DIRECT EXAMINATION

18 BY MR. FRIEDMAN:

19 Q. Dr. Gupta, if you would --

20 THE COURT: Mr. Friedman, excuse me, I would like
21 to have the -- it's my custom to have all witnesses sworn.

22 MR. FRIEDMAN: I'm sorry.

23 RAJ KUMAR GUPTA, M.D.,
24 was herein, called as if upon examination, was first duly
25 sworn, as hereinafter certified, and said as follows:

1 THE COURT: Dr. Gupta, I'm James Carr. I'm The
2 Judge to whom your son's case has been assigned. Just a
3 couple questions for you.

4 Do you understand the -- in other words, assuming
5 you've been proposed as a supplemental custodian to assure
6 two things -- well, three things, that your son would
7 appear at all court proceedings?

8 DR. GUPTA: Yes.

9 THE COURT: Abide by all the conditions that I
10 would impose upon him, and that also -- I have a
11 substantial concern about your son's risk, that your son
12 might harm himself under all the circumstances of the
13 allegations that have been made against him. Do you
14 understand that it would be your duty to The Court, not to
15 your son, but to The Court?

16 DR. GUPTA: Yes, I do.

17 THE COURT: And that you would have to comply
18 with all the conditions that I would impose upon you as
19 well, and if you had any apprehension that your son was
20 contemplating either flight or harm to himself, any
21 apprehension, something that he mentioned in the past that
22 might otherwise seem harmless?

23 DR. GUPTA: None whatsoever, sir.

24 THE COURT: But you would have no problem
25 complying with each and every condition imposed?

1 DR. GUPTA: Yes, sir.

2 THE COURT: It's my understanding you're still
3 partially active in your professional practice; is that
4 correct?

5 DR. GUPTA: Yes, sir, I do part-time work.

6 THE COURT: It's also my understanding that your
7 wife is able to -- has a driver's license and still has the
8 ability to drive; is that correct?

9 DR. GUPTA: Yes.

10 THE COURT: So one of you would have to be at the
11 home in the morning before the defendant's wife, your
12 daughter-in-law, would be leaving for work, and that person
13 would have to remain there, or else be -- be replaced by
14 another suitable custodian and remain there before she
15 returned home for work. Do you understand that?

16 DR. GUPTA: I understand that too.

17 THE COURT: You are aware, at least generally, of
18 the nature of the charges against your son?

19 DR. GUPTA: Yes, I'm aware of it, sir.

20 THE COURT: And that you're probably not aware
21 that, doing some computations about the potential sentence
22 that he might receive, this is not a guarantee at all, it's
23 simply a tentative calculation, for informational purposes
24 today only --

25 DR. GUPTA: Yes, sir.

1 THE COURT: -- that if convicted of either of the
2 two charges, both of which, to my understanding, carry a
3 minimum mandatory sentence imprisonment term of 15 years.
4 So if he's convicted of either one of these charges, the
5 sentence will be 15 years. There's nothing I can do about
6 it. And also that it is at least possible that the
7 sentence that will be indicated under the federal
8 sentencing guidelines, and Mr. Friedman can explain to you
9 what they are and how they operate, potentially could call
10 upon me to impose a sentence up to 360 months, 30 years to
11 life. I would not be required to impose that sentence, but
12 if I did not impose that sentence, I would have to explain
13 my reasons for not doing so, which I often do, okay. I
14 make no guarantee, I'm just trying to give you some sense
15 of the circumstances that, on the other hand, under the
16 guidelines, which I'm required to give serious
17 consideration and attention to, and to depart from varying
18 from those guidelines only if I believe that it's
19 appropriate for me to do so in light of certain factors
20 that I must take into consideration at the time of
21 sentence. So it's at least possible, based upon what we
22 presently know about the government's case and its
23 evidence. Obviously we do know that your son has no prior
24 criminal record, but I'm talking about based upon what the
25 government has projected as its evidence, the sentencing

1 guidelines would indicate a sentence of 360 months to life.
2 Not that that's what I would impose if your son were found
3 or pled guilty, but the minimum would be 15 years. Do you
4 understand that?

5 DR. GUPTA: I understand that, sir.

6 THE COURT: Obviously that period of potential
7 time, even the lesser amount, 15 years, the man's, what, 50
8 years old, that would mean a sentence of probably about 12
9 1/2 years. One's age and, under all the circumstances,
10 having lost the right to practice his profession and so
11 forth, I trust you can understand that I have a concern
12 about whether or not at some moment, some morning or night,
13 he might simply wake up and decide that suicide is a better
14 option. Do you understand that? I'm not saying that he
15 would, but do you understand how I would be concerned that
16 that might occur given all that has happened to him
17 already, the shame and professional consequences that go
18 from that?

19 DR. GUPTA: I understand that, sir.

20 THE COURT: Okay. I just want you to be aware of
21 that because these are the matters I'm taking into
22 consideration in evaluating whether or not the various
23 conditions that have been proposed are adequate to make
24 sure that he will not voluntarily make it impossible for
25 him to appear, and also that he will not undertake to flee,

1 to abscond, figuring that a few days of liberty are worth
2 the chance against the possibility of basically spending
3 most of what remains of his life in a federal prison. Do
4 you understand my concerns in that regard?

5 DR. GUPTA: Yes, sir.

6 THE COURT: And that's the consideration --
7 that's the issue I wanted to -- let me ask you this --

8 DR. GUPTA: Yes, sir.

9 THE COURT: -- and if you want to talk to
10 Mr. Friedman or take some time to talk to your wife about
11 this, you should, perhaps other family members, because I'm
12 so concerned I would be inclined to have you post some or
13 all of your own property, real and personal, as a security
14 to assure that your son does not harm himself or flee. In
15 other words, if you have a residence, if you have a
16 professional building, whatever you have by way of assets,
17 it would be pledged to The Court. Assuming he appears for
18 all proceedings, whatever they may be, they would all come
19 back to you in the same condition they were provided. You
20 probably have not considered that position, maybe you have.
21 But I'm very concerned that your son, if he were to flee or
22 kill himself, the consequences would be not only what it
23 would have on upon his wife and children but also his mom
24 and dad. Do you understand that?

25 DR. GUPTA: Yes, I understand that.

1 THE COURT: I'm not asking you right now because
2 I think you should talk to at least Mr. Friedman about
3 that, and perhaps another attorney, because it would be a
4 very serious undertaking, because what I would require you
5 to do is, in addition to pledging, that you would waive any
6 opportunity you might have to challenge the government
7 taking that property by way of what's called a forfeiture
8 in the event of your son's inability to appear because he
9 committed suicide. Because the law says if the defendant,
10 his appearance has been secured by property or other
11 assets, commits suicide, a Court -- it appears that a Court
12 cannot seize that property. In other words, makes it a
13 delusory (phonetic) as a security, as an assurance that he
14 would appear. I believe that it's something that would
15 have to involve consultation with counsel, and your
16 consultation with counsel and my -- and my hearing from the
17 parties, I believe that you could probably waive,
18 prospectively, any right that you might have, in the event
19 your son committed suicide, to try to reclaim or regain any
20 part of the assets that you posted. Do you understand
21 that?

22 DR. GUPTA: I understand that, sir.

23 THE COURT: As I say, I'm not asking for a
24 commitment right here and now. It's something you have to
25 talk over with your wife, any family members, if any, and

1 perhaps an attorney.

2 All that being said, Mr. Friedman, obviously any
3 questions you have, by all means feel free to ask.

4 MR. FRIEDMAN: I just really have one, max two
5 questions.

6 DIRECT EXAMINATION

7 BY MR. FRIEDMAN:

8 Q. Doctor, having heard what The Judge stated, is
9 there any sort of impediment or obstacle that would prevent
10 you from, in any way, complying with The Court's order
11 holding you, in part, responsible or obligating you to
12 report any violations or concerns that you may see to The
13 Court?

14 A. None whatsoever, sir.

15 THE COURT: I believe I mentioned this, Doctor,
16 but -- I think I did, if so I apologize. If you -- you're
17 a doctor, even though you're not a psychiatrist or
18 counselor or whatever --

19 DR. GUPTA: No, sir.

20 THE COURT: -- detect whether your son is
21 displaying any indicia of possible suicide and -- and even
22 something that's insubstantial, your sense, your concern as
23 a father, you would have to call the pretrial services
24 officer, your lawyer and the prosecutor and say, you know,
25 I have this sense, I'm concerned, I'm worried. Do you

1 understand that?

2 DR. GUPTA: Yes, sir.

3 THE COURT: Okay. Fine, Doctor. It sounds like
4 I've been beating up on you. I don't mean to be that --

5 DR. GUPTA: No, sir. No, sir, none whatsoever.
6 You are asking me everything what I need to know, sir.

7 THE COURT: Okay, very well. Mr. Friedman, once
8 again, I apologize for interrupting.

9 MR. FRIEDMAN: No, that's okay.

10 BY MR. FRIEDMAN:

11 Q. I guess there was one question I just asked you
12 about your compliance. You said there are no obstacles.

13 My only other question is, if asked by your son
14 for a prescription for any sort of pharmaceutical drugs, if
15 The Court were to instruct you that you were not able to do
16 that, what would you do?

17 A. My understanding that even as a practitioner
18 right now I cannot write for narcotics for myself or my --
19 or for my wife even, or my children. That has to go to a
20 separate practitioner. That is my understanding. It's
21 against the law.

22 THE COURT: You can -- we have a daughter who's a
23 doctor and she's told us that as well, she can't write us a
24 prescription no matter how benign it might be. So I think
25 you're telling Mr. Friedman, the government, and myself,

1 even though you're part time in practice, you're not about
2 to sacrifice your medical license?

3 DR. GUPTA: No, I cannot do that. I have
4 followed that all along.

5 THE COURT: Of course.

6 MR. FRIEDMAN: Your Honor, I have nothing
7 further.

8 THE COURT: Ms. Tangeman? Ms. Tangeman, the lady
9 who will be questioning you now, is the government's
10 counsel. Go ahead, Ms. Tangeman.

11 CROSS-EXAMINATION

12 BY MS. TANGEMAN:

13 Q. Good morning, sir. Can you tell me how old you
14 are?

15 A. I will be 80 in September.

16 Q. And how old is your wife?

17 A. My wife is born 1973 -- 1943.

18 Q. Okay. So do the math for me, how old is she?

19 A. She's 77.

20 Q. Okay. And you're still working as a doctor; is
21 that correct?

22 A. I work part time, and I think I'm in good health.
23 I run every day, and I drive.

24 Q. And sir, when you say part time, what hours are
25 you keeping?

1 A. About 15 to 20 hours a week.

2 Q. Is that in your practice in Taylor, Michigan?

3 A. Yes, sir -- yes, ma'am.

4 Q. And is that a location where your son would
5 occasionally see patients as well to assist you?

6 A. He did not. Initially, I would say 2004 he saw
7 some patients when he was potentially going to join my
8 practice. And he was on staff at a couple of the hospitals
9 in Michigan, but then he got a better offer in Toledo, and
10 that's when he decided to leave.

11 Q. Okay. So fair to say he did, but that was back
12 in the early 2000s?

13 A. 2004, 2005 I would say. And then he started his
14 practice about six months.

15 Q. And your location, how far is that from Toledo?

16 A. It's about 40 minutes from his house.

17 Q. Okay. And you talked about not prescribing for
18 family members, that's an ethical rule; is that correct?

19 A. I don't know. You know, I have not checked it,
20 but all I'm saying is I have never prescribed one for
21 myself or my family members. If they need something, they
22 have to see somebody else. I -- I think it is unethical as
23 far as I know. I'm not sure -- I'm not sure whether it's
24 illegal.

25 Q. And sir, are you -- do you consider yourself tech

1 savvy?

2 A. No.

3 Q. How about your wife, is she tech savvy?

4 A. No, we are both dumb.

5 Q. Right there with you, no criticism.

6 A. We're both dumb. We grew up in an age where
7 there was nothing -- I didn't even have a fax machine for
8 many years.

9 Q. Forgive me, sir. You have an accent. Tell me
10 where you were born.

11 A. I was born in India.

12 Q. How long have you been in the United States?

13 A. I've been here since 1967.

14 Q. Do you still have family in India?

15 A. My parents are dead. I have two brothers, but
16 that's it.

17 Q. And how about your wife? And how about your
18 wife, is she also from India?

19 A. My wife's parents are dead also. She has two
20 brothers, one brother who's dead, two sisters who are dead,
21 one brother who's 80 plus years old.

22 Q. She's also from India then?

23 A. Yes.

24 Q. And did you ever travel back to India with your
25 son either in his childhood or adulthood?

1 A. Yes, we did.

2 Q. And how often would you say your son has visited
3 India?

4 A. How long? I think he was there with us, I would
5 say about four or five years ago.

6 Q. And was that something where you all would go
7 back to India with a certain regularity, once a year,
8 multiple times a year?

9 A. If there are any -- if there was a wedding in the
10 family or something like that, that's it. We don't stay
11 there long. Might stay ten days.

12 Q. I'm sorry, didn't mean to cut you off. Is your
13 son bilingual? Does he speak the language as well?

14 A. He is little bit, not much. Mostly -- he was
15 born and brought up here. He can understand our language
16 and he can speak a few words of my language.

17 Q. Are you contributing towards any of his attorney
18 fees?

19 A. There is a potential. We have not agreed to
20 anything yet, but if there's a need we will have to do
21 that.

22 Q. And you would do that to help him out, is that
23 fair?

24 A. That is correct. He is my son.

25 Q. Sir, I know this is difficult, and I don't ask

1 this to embarrass you, but did you have any idea about the
2 allegations about this -- about your son being alleged to
3 have drugged or raped women in the past?

4 A. None whatsoever.

5 Q. And since 2006, have you or your wife lived with
6 him or in their home?

7 A. Yes, we have gone there many, many times.

8 Q. But actually lived in the home?

9 A. We've stayed over the weekend or something like
10 that, and then maybe times over the weekend they come to
11 our home.

12 Q. So fair to say your relationship has been close
13 over the years?

14 A. Extremely close. Pretty much we talk every day.

15 Q. And are your finances connected in any way with
16 his either personally or professionally?

17 A. None. None.

18 Q. And when -- in the time that you have known your
19 son to be living in the Sylvania home, did you ever know
20 him to have guns in the home?

21 A. No.

22 Q. Did you ever know his son to have -- your
23 grandson, to have guns in the home?

24 A. Not that I know of.

25 Q. Did you ever know your son to have any guns at

1 any time either in that residence or at a prior residence?

2 A. No. I can tell you one thing. When he was in
3 medical school he asked me that he would like to have a gun
4 and I told him no. And he understood with me at that time
5 that that is not a thing to do. And I told him at that
6 time that, listen, you don't know when you can get
7 depressed and you might kill yourself with that gun, and he
8 agreed with me, and he decided not to have it. And that
9 was in college.

10 Q. You specifically decided not to keep a gun in the
11 house in case hard times might fall and he might use it
12 against him?

13 A. Yes. Yes.

14 Q. And did you know that your son had been diagnosed
15 with depression and was seeing a counselor in the past?

16 A. No.

17 Q. He never disclosed that to you?

18 A. No.

19 MS. TANGEMAN: One moment, Your Honor.

20 THE COURT: Of course.

21 BY MS. TANGEMAN:

22 Q. And that statement that you had warned him about
23 not keeping the gun in the house in case he were to hit
24 sort of dark times and use it against himself, you said
25 that was back when he was in law school?

1 A. That was when he was in pre-med at Boston
2 University. And at that time -- and he was young, and he
3 had, you know, that fascination at that time, and I told
4 him that that is not what we do.

5 Q. He had a fascination with guns back then?

6 A. You know college kids, they talk about it, and I
7 said, no, we don't allow those things in our house.

8 Q. And medical school is a stressful time, is it
9 not, you would know that personally?

10 A. I would say so.

11 Q. I have nothing further. Thank you.

12 THE COURT: Okay. Mr. Friedman, anything
13 further?

14 MR. FRIEDMAN: No, Your Honor. I would just ask
15 if we could do a virtual side bar if possible?

16 THE COURT: I guess -- probably the thing to do,
17 Melissa, is to put me, the prosecutors and Mr. Friedman in
18 the breakout room. I think that's where we should go I
19 assume.

20 MS. DYBALA: Judge, would you also like to have
21 Mr. Long?

22 THE COURT: Of course. The other lawyers as
23 well.

24 DR. GUPTA: Will you be needing me anymore, sir?

25 THE COURT: Doctor, let's just sit tight. I

1 don't think so, but if you can sit tight for a few minutes,
2 okay. This is the way -- if we were in a courtroom, which
3 I'm sure you know when the lawyers have side bars come up
4 and huddle together and talk privately. And I'll simply
5 mention that I'm following you by about two months when it
6 comes time to hitting 80, and I don't run, I try to walk
7 every day. So one never knows about health.

8 MS. DYBALA: Judge, just to confirm the people
9 going into the breakout room, I have Ms. Skutnik, Mr. Long,
10 Mr. Friedman, Ms. Grant, you and Ms. Tangeman.

11 (A side bar conference was held in the Zoom
12 breakout room on the record.)

13 THE COURT: Mr. Friedman, as I indicated, I have
14 a 12:00 as well. And given the fact that we have no court
15 reporters, I'm afraid we probably have to adjourn this
16 until sometime tomorrow afternoon, depending upon your
17 availability and that of other counsel and any other
18 witnesses that you and the government would want to call,
19 but go ahead. Sounds like we both have conflicts.

20 MR. FRIEDMAN: Yeah, Your Honor. Thank you for
21 your understanding. So tomorrow we have a -- Mr. Long and
22 I have a 10:30 commitment, and then we have a -- and then
23 Ms. Grant and I have a 3:30 commitment. The 1:00 is with
24 The Judges, as I had discussed with you earlier, that's the
25 Covid task force with Judge Gaughan and many others.

1 Tomorrow's not wonderful, but this is important so we'll --

2 THE COURT: Absolutely. So I believe -- Tina,
3 what time is that -- is Mr. Schultz and Mr. Koharski
4 (phonetic) and so forth on the Simmons case? I can resume,
5 I believe, whenever it was that you were done with your
6 10:30. And then with any luck, perhaps we would be done --
7 let me ask Ms. Tangeman. Tracey, do you have any witnesses
8 you are going to call?

9 MS. TANGEMAN: Yes, the agent.

10 THE COURT: Okay.

11 MS. TANGEMAN: It would be pretty brief though.
12 It would be pretty brief.

13 THE COURT: Okay. Well, let's -- and
14 Mr. Friedman, what time are you done tomorrow with the
15 10:30?

16 MR. FRIEDMAN: I would say probably 90 minutes,
17 so 10:30 --

18 THE COURT: What time are you done with the --
19 with your session with Judge Gaughan, Chief Judge Gaughan?

20 MR. FRIEDMAN: That's always from 1:00 to 2:00.
21 It's every Wednesday 1:00 to 2:00. Whether she'll be on
22 it, I don't know, but it's with the other judges. And then
23 we have a 3:30. So tomorrow from 2:00 to -- 2:00 to 3:00.
24 I don't know, Tracey, you think an hour is adequate, I
25 don't know?

1 MS. TANGEMAN: I would think it would be
2 sufficient with what we have remaining, but I also didn't
3 think we were going to use three hours. This video thing
4 slows things down.

5 THE COURT: But also, candidly, I would rather --
6 I would prefer to have sort of an open block of time. I
7 know nobody wants to postpone this longer than necessary,
8 but maybe sometime Thursday or Friday?

9 MR. FRIEDMAN: Friday would be fantastic, Your
10 Honor. That whole day is open.

11 (A brief discussion was had off the record.)

12 THE COURT: Maybe we can proceed at 8:30, 9:00
13 Friday morning. That might give you and Mr. Gupta and his
14 wife time to be in contact with a civil attorney so we may
15 have some information about that.

16 MR. FRIEDMAN: Yeah, 8:30 Friday would be fine,
17 Your Honor.

18 THE COURT: Okay. Mr. Long, what about yourself,
19 what about the other lawyers on your team?

20 MR. FRIEDMAN: I'm looking at our joint schedule,
21 they're okay also.

22 THE COURT: Okay. And what about the government?

23 MS. TANGEMAN: I'm available, my agent is
24 available. Carol, how are you for Friday?

25 MS. SKUTNIK: I'm free Friday as well.

1 THE COURT: That will give you time to check on
2 the question of waiver if you could. If we need a little
3 briefing on that, that's fine, move it along.

4 Mr. Friedman, if you would mention to your
5 client, or I can do it myself before we adjourn, were I to
6 release him, he would be brought first to the Lucas County
7 Jail, I believe, and be tested to see whether he's positive
8 for COVID-19. I believe what happens is even if he tests
9 negative, he'd be held in quarantine for two weeks to make
10 sure that -- I just don't know how it would work. Maybe if
11 he tests negative -- I guess if he tests negative,
12 arrangements could be made to have him picked up. And if
13 he tested positive, then he'd be placed in quarantine for
14 two weeks in the Lucas County Jail, would be available
15 there. I just want to emphasize, I don't know what I'm
16 going to decide.

17 MR. FRIEDMAN: Understood. We'll look into that,
18 Your Honor.

19 THE COURT: Okay. Yeah. Okay. So why don't we
20 resume at 8:30 on Friday morning. And Angela, thank you so
21 much for making yourself available.

22 Tracey Tangeman, anything further from your part
23 now from the government?

24 MS. TANGEMAN: No, Your Honor.

25 THE COURT: Hold on, I've got to call and get us

1 out of the breakout room.

2 MR. FRIEDMAN: Your Honor, is it okay if I can
3 leave the room so I can get on the other call?

4 THE COURT: Yes. I'm going to tell your client
5 the drill, okay? Mr. Friedman, you may leave. I'll see
6 you Friday morning.

7 MR. FRIEDMAN: Thank you so much. Have a good
8 day everyone.

9 (Side bar conference concluded.)

10 THE COURT: Counsel, if -- I just want to tell
11 Dr. Gupta as well what's happened. Mr. Gupta, can you hear
12 me? We have to adjourn. Mr. Gupta, are you on the phone?
13 Mr. Friedman had a 12:00 matter. We have to adjourn for
14 the day because we don't have a court reporter. I have
15 something at noon that everybody is waiting on me for. The
16 earliest we can get back together is 8:30 on Friday
17 morning. We will resume then. I don't know how long it
18 will last.

19 As I assured your lawyers and the government's
20 attorney, I don't know what I'm going to do, just have to
21 wait and see. In the meantime, that's basically what I
22 want to let you know, okay. We'll be adjourning now, and
23 we'll reconvene on Friday at 8:30. I don't know if your
24 attorneys want to discuss anything with you further. If
25 so, Melissa can put you into a breakout room, and then you

1 can communicate with her when you're ready to go.

2 Counsel, if you want to spend a few more minutes
3 with your client, you're welcome to do so.

4 MR. LONG: I think I'd appreciate a couple
5 minutes with my client just for a housekeeping matter. I
6 believe, Tracey, I don't want to answer for you, but I
7 believe Dr. Gupta's father, we've completed his testimony
8 so he would no longer be resuming. We pick up with Dr. --
9 the defendant's mother and then the agent on Friday, is
10 that correct?

11 MS. TANGEMAN: Agreed. That's my understanding,
12 yes.

13 THE COURT: Dr. Gupta, you're free to go. Thank
14 you for your willingness to participate and the testimony.

15 DR. GUPTA: Thank you very much, sir. I
16 appreciate your help. Thank you.

17 THE COURT: It's just my job, Doctor. That's all
18 it is.

19 DR. GUPTA: Thank you, sir.

20 THE COURT: Okay. So I'm going to jump off.

21 Dr. Gupta, you may jump off. Tracey and government counsel
22 can jump off as well. Thanks folks.

23

24

25

C E R T I F I C A T E

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

s:/Angela D. Nixon July 14, 2020

Angela D. Nixon, RMR, CRR Date